FEDERAL REGISTER

VOLUME 33 • NUMBER 170

Friday, August 30, 1968 • Washington, D.C.

Pages 12219–12274

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Civil Aeronautics Board
Civil Service Commission
Commerce Department
Commodity Credit Corporation
Consumer and Marketing Service
Customs Bureau
Defense Department
Federal Aviation Administration
Federal Communications Commission
Federal Maritime Commission
Fish and Wildlife Service
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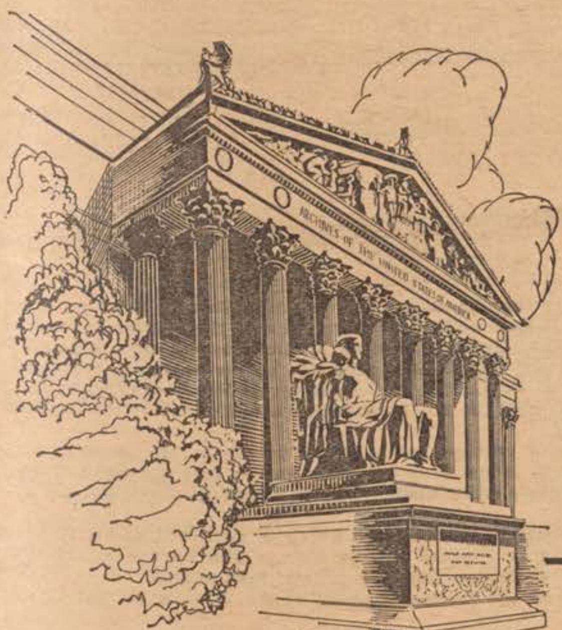

FEDERAL REGISTER

Area Code 202 Phone 962-8626

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration (mail address National Archives Building, Washington, D.C. 20408), pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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The regulatory material appearing herein is keyed to the CODE OF FEDERAL REGULATIONS, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended. The CODE OF FEDERAL REGULATIONS is sold by the Superintendent of Documents. Prices of books and pocket supplements are listed in the first FEDERAL REGISTER issue of each month.

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Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Miscellaneous Amendments

1. Section 213.3105 is amended to clarify the limitation on employment as 130 working days a year instead of 130 calendar days for Customs Inspectors and Port Directors at GS–9 and below in Alaska who serve on a part-time, intermittent, or temporary basis. Effective on publication in the FEDERAL REGISTER, subparagraph (3) of paragraph (b) of § 213.3105 is amended as set out below.

§ 213.3105 Treasury Department.

* * * * *

(b) *Bureau of Customs.* * * *

(3) Positions of part-time, intermittent, or temporary Customs Inspectors and Port Directors in Alaska paid at a rate not above GS–9 and for not more than 130 working days in a service year.

* * * * *

2. Section 213.3110 is amended to clarify the limitation on the temporary or intermittent employment of GS–9—14 Field Representatives in the Community Relations Service as 130 working days a year instead of 130 calendar days. Effective on publication in the FEDERAL REGISTER, subparagraph (5) of paragraph (a) of § 213.3110 is amended as set out below.

§ 213.3110 Department of Justice.

(a) *General.* * * *

(5) Thirty positions of Field Representative, GS–9 through GS–14, in the Community Relations Service for temporary or intermittent employment for not to exceed 130 working days a year.

* * * * *

3. Section 213.3112 is amended to clarify the limitation on employment under Schedule A of appraisers and examiners who work on a temporary, intermittent, or part-time basis where a knowledge of local values or conditions is required. Effective on publication in the FEDERAL REGISTER, subparagraph (1) of paragraph (g) of § 213.3112 is amended as set out below.

§ 213.3112 Department of the Interior.

* * * * *

(g) *Bureau of Reclamation.* (1) Appraisers and examiners employed on a temporary, intermittent, or part-time basis on special valuation or prospective-entrymen-review projects where knowledge of local values or conditions or other specialized qualifications not possessed by regular Bureau employees are required for successful results. Employment under this provision shall not exceed 130 working days a year in any individual case: *Provided,* That such employment may, with prior approval of the Commission, be extended for not to exceed an additional 50 working days in any single year.

* * * * *

(5 U.S.C. 3301, 3302, E.O. 10577, 19 F.R. 7521, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 68-10485; Filed, Aug. 29, 1968; 8:47 a.m.]

PART 213—EXCEPTED SERVICE

U.S. Tariff Commission

Section 213.3339 is amended to show that the title of six positions listed under Schedule C as Private Secretary has been changed to Confidential Assistant. Effective on publication in the FEDERAL REGISTER, paragraph (a) of § 213.3339 is amended as set out below.

§ 213.3339 U.S. Tariff Commission.

(a) One Confidential Assistant to each Commissioner.

(5 U.S.C. 3301, 3302, E.O. 10577, 19 F.R. 7521, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 68-10484; Filed, Aug. 29, 1968; 8:47 a.m.]

PART 213—EXCEPTED SERVICE

National Labor Relations Board

Section 213.3341 is amended to show that the position of Special Assistant to the Chairman is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, paragraph (i) is added to § 213.3341 as set out below.

§ 213.3341 National Labor Relations Board.

* * * * *

(i) One Special Assistant to the Chairman.

(5 U.S.C. 3301, 3302, E.O. 10577, 19 F.R. 7521, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 68-10483; Filed, Aug. 29, 1968; 8:47 a.m.]

Title 7—AGRICULTURE

Chapter III—Agricultural Research Service, Department of Agriculture

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Witchweed

REGULATED AREAS; CORRECTION

In F.R. Doc. 68-9855, Vol. 33, No. 160, for Friday, August 16, 1968, the following corrections are made in § 301.80–2a:

1. Page 11633, under Lenoir County, first paragraph, line 17, should read as follows: "Secondary Road 1336, thence southeast along".

2. Page 11634, under Pender County, first paragraph, line 10, should read as follows: "ondary Road 1201, thence east along said".

3. Page 11636, under Darlington County, the entry for the Pickett, Liston J., farm should read as follows:

The Pickett, Liston J., farm located on the west side of a dirt road and 0.2 mile north of its unction with State Secondary Highway 179, said junction being 1 mile southeast of the junction of said highway and State Secondary Highway 35.

Dated: August 26, 1968.

D. R. SHEPHERD,
Director,
Plant Pest Control Division.

[F.R. Doc. 68-10472; Filed, Aug. 29, 1968; 8:46 a.m.]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Peach Reg. 6, Amdt. 1]

PART 919—PEACHES GROWN IN MESA COUNTY, COLO.

Regulation by Grades and Sizes

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 919, as amended (7 CFR Part 919), regulating the handling of peaches grown in the county of Mesa in the State of Colorado, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the Administrative Committee, established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of such peaches, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule

making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than August 31, 1968. Shipments of such peaches are currently regulated pursuant to Peach Regulation 6 (33 F.R. 10388) and unless sooner terminated, will continue to be so regulated through September 28, 1968; determinations as to the need for, and extent of, continued regulation of such peach shipments must await the development of the crop and other available information. On the basis of other available information for regulation of peach shipments subsequent to August 31, 1968, in the manner herein provided it is necessary, in order to effectuate the declared policy of the act, to make this amendment effective as hereinafter set forth; information concerning the provisions of this amendment has been disseminated among handlers of such peaches and compliance with this amendment will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

Order. The provisions of paragraph (a)(1)(i) of § 919.307 (Peach Regulation 6; 33 F.R. 10388) are hereby amended to read as follows:

§ 919.307 Peach Regulation 6.

(a) *Order*. (1) * * *

(i) Any peaches of any variety which do not grade at least U.S. No. 1 grade;

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated, August 27, 1968, to become effective August 31, 1968.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 68-10548; Filed, Aug. 29, 1968; 8:50 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES AND OTHER OPERATIONS

[Amdt. 7]

PART 1464—TOBACCO

Subpart—Tobacco Loan Program

MISCELLANEOUS AMENDMENTS

The regulations issued by Commodity Credit Corporation, published in 31 F.R. 9679; 32 F.R. 10249, 11416, 14203; 33 F.R. 136, 910 and 9759, with respect to the tobacco price support loan program are herein amended as follows:

1. In § 1461.1756, paragraph (d) (2) and (3) is amended to provide price support on Flue-cured tobacco of the 1968 and subsequent crops which is security for a farm storage loan obtained pursuant to Part 1421 of this chapter and which is delivered directly to the association. The amended subparagraphs read as follows:

§ 1464.1756 Availability of price support.

* * * * *

(d) Price support to eligible producers will be made available on eligible tobacco in the following manner:

* * * * *

(2) *Upon direct delivery to the Association.* Eligible producers in nonauction market areas may deliver eligible tobacco to central receiving points designated by the appropriate association. Flue-cured producers who, after the close of all Flue-cured auction markets, including clean-up sales, have Flue-cured tobacco which is security for a farm storage loan obtained pursuant to Part 1421 of this chapter, may deliver such tobacco to the central receiving points designation by the appropriate association. After the tobacco has been graded by USDA inspectors, the producer will receive the price support advance directly from the association for any tobacco to be pledged as security for loans.

(3) *Period of price support.* Price support will be available to eligible producers on eligible tobacco only during each year's normal marketing season for each kind of tobacco for which support is provided. For the purpose of this subpart, the normal marketing season for Flue-cured tobacco delivered directly to the association will include the date on which the producer is directed, pursuant to Part 1421 of this chapter, to so deliver the tobacco. Such date will be soon after the close of all Flue-cured markets, including clean-up sales.

2. In § 1464.1758, paragraph (c) is amended to provide for collection of 1968 and subsequent crop Flue-cured tobacco farm storage loans by deductions from price support advances. The amended paragraph is as follows:

§ 1464.1758 Deductions from advances.

* * * * *

(c) If any producer of 1968 and subsequent crops of Flue-cured tobacco is indebted to the United States for a farm storage loan obtained pursuant to Part 1421 of this chapter, the principal amount of such loan will be deducted from the price support advance paid the producer by the association and will be applied to repayment of the farm storage loan.

3. Section 1464.1763 is amended to include in the definition of eligible tobacco, Flue-cured tobacco which is delivered directly to the association. The amended section reads as follows:

§ 1464.1763 Eligible tobacco.

Eligible tobacco shall be United States and Puerto Rican Tobacco (as defined in the Agricultural Adjustment Act of 1938, as amended) which (a) is of a kind and crop for which price support is available; (b) if marketing quotas are in effect, has been properly identified in accordance with applicable tobacco Marketing Quota Regulations by (1) a Within Quota Marketing Card, if other than Flue-cured or burley tobacco, or (2) a Marketing Card which does not bear the words "No Price Support," if Flue-cured or burley tobacco; (c) if Flue-cured tobacco, (1) is offered for marketing on a Tobacco Sale Bill which is not marked "No Price Support", and is for a number of pounds which, when added to the pounds of Flue-cured tobacco previously marketed, does not exceed 110 percent of the applicable farm marketing quota, or (2) is delivered directly to the association and is a quantity which, when added to the previous marketings, does not exceed 110 percent of the applicable farm marketing quota; (d) has been delivered to the association by the producer, either directly or through an auction warehouse, prior to sale to any other person; (e) has been delivered to the association by the producer, either directly or through an auction warehouse, in lots identified by not more than one marketing card for each lot; (f) is in sound and merchantable condition; (g) was not produced on land owned by the Federal Government in violation of the provisions of a lease restricting the production of tobacco; and (h) has been graded by USDA official tobacco inspectors in a grade for which price support is available.

(Sec. 4, 62 Stat. 1070, as amended, sec. 5, 62 Stat. 1072, secs. 101, 106, 401, 403, 63 Stat. 1051, as amended, 1054, sec. 125, 70 Stat. 198, 74 Stat. 6; 7 U.S.C. 1441, 1445, 1421, 1423, 7 U.S.C. 1813, 15 U.S.C. 714b, 714c)

Effective date: Date of filing with Office of the Federal Register.

Signed at Washington, D.C., on August 26, 1968.

E. A. JAENKE,
Acting Executive Vice President, Commodity Credit Corporation.

[F.R. Doc. 68-10473; Filed, Aug. 29, 1968; 8:46 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 8563, Amdt. No. 25-18]

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

Fuel Jettisoning Systems

The purpose of this amendment to § 25.1001 of Part 25 of the Federal Aviation Regulations is to revise the criteria for fuel jettisoning systems on airplanes.

This action was issued as a notice of proposed rule making (Notice No. 67-51) and published in the FEDERAL REGISTER on December 6, 1967 (32 F.R. 17487). The comments received in response to the notice are discussed hereinafter.

Several comments expressed concern about the relationship between an airplane's established landing distance and the corresponding runway length that would be required for landing at the airport of departure under the proposed regulation. The comments indicate that under certain conditions, the runway length for landing at the airport of departure might be more critical than the landing and approach climb requirements. In this connection, it was recommended that specific engineering data be examined for all anticipated cases where weight to meet the go-around climb gradients and weight to land and stop may be in conflict. One of the commentators stated that if the weight specified in the Notice is the most restrictive for all cases and can be proved by test-substantiated engineering data, then its concern is alleviated. This matter was considered at the time the notice was being formulated. A review of the type certification test data concerning relative takeoff and landing distances of four representative types of airplanes that varied in size and in the number and type of engines, indicated that for the critical range of takeoff weights, the runway required for takeoff would always provide an adequate margin for landings at the airport of departure. Moreover, it was shown that the runway length margin for landing increases with increases in the ratio of the takeoff to landing weight.

In a related comment the opinion was also expressed that under certain conditions, maximum brake energy capacity may be more limiting than the landing and approach climb requirement. It was suggested that the proposed rule should include language to the effect that the aircraft must be capable of stopping within the confines of the available runway at the airport of departure. The FAA does not consider that such a revision to the proposal is necessary. There has been no adverse service experience with airplanes certificated under Part 25 involved in overweight landings. Moreover, the accelerate-stop demonstration used in showing compliance with the takeoff performance requirements at takeoff weight also provides assurance of the ability to stop an airplane with takeoff weight within the confines of the available runway at the airport of departure.

A comment was also received recommending that the proposed rule be changed to permit compliance with the performance requirements specified in paragraph (c) of the proposal to be shown at a weight that is 95 percent of the takeoff weight as an alternative to the proposed requirement. The commentator stated that this is appropriate since at least two transport airplanes have been granted FAA exemptions based on meeting the performance requirements at 95 percent of the takeoff weight. The commentator further advised that, in some cases, the 15-minute fuel burn-off as provided in the proposal could amount to a weight reduction greater than 5 percent of the maximum takeoff weight if certain emergency procedures were established by the applicant for the 15-minute go-around. In this connection, the commentator also recommended that the regulation provide that the 15-minute takeoff, go-around and landing operation be conducted in accordance with emergency procedures (such as gear and flaps down and the use of augmented thrust) for operation in service.

Under the proposal, compliance with the climb requirements specified in paragraph (c) would have to be determined at a weight equivalent to the maximum takeoff weight less the weight of the fuel that would be consumed during a 15-minute flight in which the airplane is involved in a takeoff, go-around, and landing at the airport of departure. In the Notice, it was proposed that this flight be conducted in accordance with the procedures established by the applicant for operation in service, in other words, the procedures (and the resulting airplane configurations) used by the manufacturer in meeting the present performance requirements under Part 25 for takeoff and go-around operation (i.e., takeoff, balked landing, and missed approaches). In this connection, one of the commentators stated that the airplane configurations assumed in establishing the weight at the end of 15 minutes (from the point of view of aerodynamic drag) should be compatible with the approach and landing configuration assumed for compliance with the climb requirements. The FAA agrees that it would not be appropriate in the interest of safety to permit the use of special procedures designed to provide the maximum burn-off rate for the sole purpose of meeting this requirement. As indicated above, it is those procedures used by the applicant in meeting the performance requirements of Part 25 that must be used in conducting the takeoff, go-around, and landing. The proposal has been revised to make this clear. This does not mean, however, that the procedures established in accordance with the current performance requirements of Part 25 are not emergency procedures, and such procedures might, in fact, result in the configurations suggested by the commentator, provided the airplane meets the appropriate climb requirements for each stage of flight.

With respect to the commentators' recommendation concerning the incorporation into the regulation of an alternative means for determining the weight at which the climb performance requirements must be met, the FAA does not consider that such a change is appropriate. The proposal was intended to provide a regulation that can be uniformly applied on a rational rather than an arbitrary basis. Moreover, the recommendation does not provide an acceptable alternative since the burn-off rate for current aircraft designs is such that a weight established on the basis of fuel burn-off during a 15-minute go-around using the procedures for operation in service would generally be higher than the weight based on the arbitrary figure of 95 percent of the takeoff weight. Thus, incorporation of the commentators' recommendation would result in the general application of the 95 percent criteria. While previous FAA exemptions from the current requirement of § 25.1001 were based on the fact that the aircraft had been shown to meet the approach and landing climb requirements of Part 25 at a weight equal to 95 percent of the takeoff weight, these exemptions were all limited to aircraft in which the ratio of takeoff weight to landing weight was not more than 115 percent. The commentator did not recommend the incorporation of the 115 percent limitation and the FAA does not consider that such a limitation would be appropriate in a rule of general applicability.

Another comment inferred that the 15-minute period provided for in the proposal must be assumed to start at the maximum (structural) certificated weight. The commentator also assumed that for high altitude and temperature, it is permissible to take credit for the fact that the maximum takeoff weight may be limited by these conditions and suggested that the rule be clarified. The term "maximum takeoff weight" used in the rule refers to maximum weight as specified in § 25.25. This is the highest weight at which compliance with each applicable requirement of Part 25 is shown, including any limitations necessary to meet the performance requirements at altitude or at high temperatures. As stated in § 25.25 the term "design maximum weight" is the highest weight at which compliance is shown with the structural requirement. The commentator is, however, correct in his assumption that for the high altitude and temperature, the maximum take-off weight is the weight as limited by the applicable altitude and temperature at the airport of departure. This is clearly indicated in the proposal.

One of the comments recommended that the rule should be changed to require that the applicable approach and landing climb requirements be met at the maximum weight. This comment, however, does not take into consideration the fact that fuel will be consumed during the necessary takeoff, go-around, and landing at the airport of departure and, therefore, represents an unrealistic requirement.

Another commentator thought that turbine powered airplanes should be exempt from the fueling jettisoning requirement because they comply with more stringent performance regulations and because rationalization of en route terrain clearance and drift down regulations result in greater en route protection. The commentator also pointed out that while the airplane may be landing at maximum weight, it obviously has a reasonable climb capability because the airplane has already satisfied the takeoff climb regulations, and that fuel jettisoning systems impair safety if they malfunction.

This proposal takes into consideration the fact that there are high performance airplanes for which a fuel-jettisoning system may not be required. However, the FAA is not aware that all turbine engine powered airplanes have the required performance capability and the performance capability listed by the commentator does not establish a basis for exempting such airplanes.

There were comments questioning whether or not the proposed regulations could be applied to currently certificated airplanes. In response to these comments, it should be pointed out that while all operators may take advantage of the regulation, since the regulation would be the basis for increasing the takeoff weight of an airplane, they must apply to the FAA under Part 21 for approval of a change to the maximum takeoff weight.

Another comment suggestd that the rule should specifically require that the fuel jettisoning system be constructed to meet the requirements of the regulation. In this connection, it was suggested that the rule should specifically refer to the "design and construction" of the jettisoning system. The FAA does not consider that such a change is necessary since proper construction is assured through the requirement that the fuel jettisoning system must be demonstrated by flight tests. However, upon further consideration, the FAA does believe that the proposal should be changed to avoid any implication that the FAA proposes design limits on the performance of the fuel jettisoning system. The final rule, therefore, incorporates the language of the present regulation and requires that the jettisoning system must be "able" to jettison the specified amounts of fuel rather than that it be designed so that it will jettison the specified amounts of fuel.

Finally, in the light of some of the comments received in response to Notice 67-51, it should be made clear that under the current regulations an investigation of the flight characteristics of an airplane would be required at the weight existing at the end of the specified 15-minute go-around. Section 25.21 provides that the flight requirements of Part 25 must be met at each combination of weight and center of gravity within the range of loading conditions for which certification is requested. The weight existing at the end of the 15-minute go-around operation referred to in this regulation will be within the range of loading conditions for which certification is requested. In addition, § 25.143 specifically requires that an airplane must be safely controllable and maneuverable during takeoff, climb, level flight, descent, and landing. Moreover, it must be determined that it is possible to make a smooth transition from one flight condition to another without exceptional piloting skill, alertness or strength under any probable operating condition.

A nonsubstantive change has been made in § 25.343(a) to correct the reference to paragraph (c) of § 25.1001 since former paragraph (c) is now incorporated in paragraphs (h) and (i).

In consideration of the foregoing, §§ 25.343 and 25.1001 of Part 25 of the Federal Aviation Regulations are amended effective September 29, 1968, as follows:

1. Section 25.343(a) is amended by striking out the reference "§ 25.1001(c)" and inserting the reference "§ 25.1001 (h) and (i), as applicable," in place thereof.

2. Section 25.1001 is amended by deleting present paragraphs (a) through (d), by redesignating present paragraphs (e), (f), and (g), as paragraphs (j), (k), and (l), respectively, and by adding new paragraphs (a) through (i) to read as follows:

§ 25.1001 **Fuel jettisoning system.**

(a) A reciprocating engine powered airplane must have a fuel jettisoning system installed that meets the requirements of this section unless it is shown that the airplane meets the climb requirements of §§ 25.65(b) and 25.67(e) at the weight specified in paragraph (c) of this section.

(b) A turbine engine powered airplane must have a fuel jettisoning system installed that meets the requirements of this section unless it is shown that the airplane meets the climb requirements of §§ 25.119 and 25.121(d) at the weight specified in paragraph (c) of this section.

(c) Compliance with the climb performance requirements of paragraph (a) or (b) of this section must be shown at a weight equal to the maximum takeoff weight less the actual or computed weight of the fuel that would be consumed by the engines during a 15-minute flight in which the airplane is involved in a takeoff, go-around, and landing at the airport of departure, with the airplane's configuration, speed, power, and thrust the same as that used in meeting the applicable takeoff, approach and landing climb performance requirements of this part.

(d) For a reciprocating engine powered airplane, the fuel jettisoning system must be able to jettison enough fuel within 15 minutes to bring the weight specified in paragraph (c) of this section down to the weight at which the airplane will meet the climb requirements of §§ 25.65(b) and 25.67(e) assuming that the fuel is jettisoned under the condition found least favorable during the flight test prescribed in paragraph (f) of this section.

(e) For a turbine engine powered airplane, the fuel jettisoning system must be able to jettison enough fuel within 15 minutes to bring the weight specified in paragraph (c) of this section down to the weight at which the airplane will meet the climb requirements of §§ 25.119 and 25.121(d) assuming that the fuel is jettisoned under the condition found least favorable during the flight test prescribed in paragraph (f) of this section.

(f) Fuel jettisoning must be demonstrated beginning at maximum takeoff weight with flaps and landing gear up and in—

(1) A power-off glide at $1.4V_{S_1}$;

(2) A climb at the one-engine inoperative best rate-of-climb speed, with the critical engine inoperative and the remaining engines at maximum continuous power; and

(3) Level flight at $1.4V_{S_1}$, if the results of the tests in the condition specified in subparagraphs (1) and (2) of this paragraph show that this condition could be critical.

(g) During the flight tests prescribed in paragraph (f) of this section, it must be shown that—

(1) The fuel jettisoning system and its operation are free from fire hazard;

(2) The fuel discharges clear of any part of the airplane;

(3) Fuel or fumes do not enter any parts of the airplane;

(4) The jettisoning operation does not adversely affect the controllability of the airplane.

(h) For reciprocating engine powered airplanes, means must be provided to prevent jettisoning the fuel in the tanks used for takeoff and landing below the level allowing 45 minutes flight at 75 percent maximum continuous power. However, if there is an auxiliary control independent of the main jettisoning control, the system may be designed to jettison the remaining fuel by means of the auxiliary jettisoning control.

(i) For turbine engine powered airplanes, means must be provided to prevent jettisoning the fuel in the tanks used for takeoff and landing below the level allowing climb from sea level to 10,000 feet and thereafter allowing 45 minutes cruise at a speed for maximum range. However, if there is an auxiliary control independent of the main jettisoning control, the system may be designed to jettison the remaining fuel by means of the auxiliary jettisoning control.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on August 23, 1968.

D. D. THOMAS,
Acting Administrator.

[F.R. Doc. 68-10513; Filed, Aug. 29, 1968; 8:49 a.m.]

[Docket No. 68-WE-17-AD, Amdt. 39-645]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 727 Series Airplanes

Amendment 39-625 (33 F.R. 10644), AD 68-15-4, requires the installation of a flame barrier on the lower inboard side of the R.H. rack support assembly adjacent to the battery charger on Boeing Model 727 Series Airplanes.

After issuing AD 68-15-4, the Federal Aviation Administration determined that it would be in the public interest to increase the compliance time of this AD. Therefore, the AD is being amended to provide a compliance time of 1,200 hours time in service after the effective date of this AD.

Since this amendment relieves a restriction, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective immediately upon publication in the FEDERAL REGISTER.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39–625 (33 F.R. 10644) AD 68–15–4 is amended as follows:

Amend the compliance requirement to read:

Compliance required within the next 1,200 hours time in service after the effective date of this AD, unless already accomplished.

The amendment becomes effective on September 5, 1968.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Los Angeles, Calif., on August 22, 1968.

LEE E. WARREN,
Acting Regional Director, FAA Western Region.

[F.R. Doc. 68–10512; Filed, Aug. 29, 1968; 8:49 a.m.]

Title 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

SUBCHAPTER C—AGE DISCRIMINATION IN EMPLOYMENT

PART 860—INTERPRETATIONS

Miscellaneous Amendments

Pursuant to the Age Discrimination in Employment Act of 1967 (81 Stat. 602; 29 U.S.C. 620) and Secretary's Orders No. 10–68 (33 F.R. 9729) and No. 11–68 (33 F.R. 9690), 29 CFR Part 860 is hereby amended by adding thereto new §§ 860.50, 860.95, 860.105, and 860.110, to read as set forth below.

As these new sections contain only interpretative rules and are not substantive, subsections (b), (c), and (d) of 5 U.S.C. 553 do not apply. I do not believe that either general notice of proposed rule making and public participation therein or delay in effective date would serve a useful purpose here. Accordingly, these rules shall be effective immediately.

1. The new § 860.50 reads as follows:

§ 860.50 "Compensation, terms, conditions, or privileges of employment * * *".

(a) Section 4(a)(1) of the Act specifies that it is unlawful for an employer "to fail or refuse to hire or to discharge any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's age;"

(b) The term "compensation" includes all types and methods of remuneration paid to or on behalf of or received by an employee for his employment.

(c) The phrase "terms, conditions, or privileges of employment" encompasses a wide and varied range of job-related factors including, but not limited to, job security, advancement, status, and benefits. The following are examples of some of the more common terms, conditions, or privileges of employment: The many and varied employee advantages generally regarded as being within the phrase "fringe benefits," promotion, demotion or other disciplinary action, hours of work (including overtime), leave policy (including sick leave, vacation, holidays), career development programs, and seniority or merit systems (which govern such conditions as transfer, assignment, job retention, layoff and recall). An employer will be deemed to have violated the Act if he discriminates against any individual within its protection because of age with respect to any terms, conditions, or privileges of employment, such as the above, unless a statutory exception applies.

2. The new § 860.95 reads as follows:

§ 860.95 Job applications.

The term "job applications", within the meaning of the recordkeeping regulations under the Act (Part 850 of this chapter), refers to all inquiries about employment or applications for employment or promotion including, but not limited to, résumés or other summaries of the applicant's background. It relates not only to preemployment inquiries but to inquiries by employees concerning terms, conditions, or privileges of employment as specified in section 4 of the statute. As in the case with help wanted notices or advertisements (see § 860.92), a request on the part of an employer, employment agency, or labor organization for information such as "Date of Birth" or "State Age" on an employment application form is not, in itself, a violation of the Age Discrimination in Employment Act of 1967. But because the request that an applicant state his age may tend to deter older applicants or otherwise indicate a discrimination based on age, employment application forms which request such information in the above, or any similar phrase, will be closely scrutinized to assure that the request is for a permissible purpose and not for purposes proscribed by the statute. That the purpose is not one proscribed by the statute should be made known to the applicant, as by a reference on the application form to the statutory prohibition in language to the following effect: "The Age Discrimination in Employment Act of 1967 prohibits discrimination on the basis of age with respect to individuals who are at least 40 but less than 65 years of age."

3. The new § 860.105 reads as follows:

§ 860.105 Bona fide seniority systems.

Section 4(f)(2) of the Act provides that "It shall not be unlawful for an employer, employment agency, or labor organization * * * to observe the terms of a bona fide seniority system * * * which is not a subterfuge to evade the purposes of this Act * * *."

(a) Though a seniority system may be qualified by such factors as merit, capacity, or ability, any bona fide seniority system must be based on length of service as the primary criterion for the equitable allocation of available employment opportunities and prerogatives among younger and older workers. In this regard it should be noted that a bona fide seniority system may operate, for example, on an occupational, departmental, plant, or company wide unit basis.

(b) Seniority systems not only distinguish between employees on the basis of their length of service, they normally afford greater rights to those who have the longer service. Therefore, adoption of a purported seniority system which gives those with longer service lesser rights, and results in discharge or less favored treatment to those within the protection of the Act, may, depending upon the circumstances, be a "subterfuge to evade the purposes" of the Act. Furthermore, a seniority system which has the effect of perpetuating discrimination which may have existed on the basis of age prior to the effective date of the Act will not be recognized as "bona fide."

(c) Unless the essential terms and conditions of an alleged seniority system have been communicated to the affected employees and can be shown to be applied uniformly to all of those affected, regardless of age, it will also be regarded as lacking the necessary bona fides to qualify for the exception.

(d) It should be noted that seniority systems which segregate, classify, or otherwise discriminate against individuals on the basis of race, color, religion, sex, or national origin, are prohibited under Title VII of the Civil Rights Act of 1964, where that Act otherwise applies. Neither will such systems be regarded as "bona fide" within the meaning of section 4(f)(2) of the Age Discrimination in Employment Act of 1967.

4. The new § 860.110 reads as follows:

§ 860.110 Involuntary retirement before age 65.

Section 4(f)(2) of the Act provides that "It shall not be unlawful for an employer, employment agency, or labor organization * * * to observe the terms of * * * any bona fide employee benefit plan such as a retirement, pension, or insurance plan, which is not a subterfuge to evade the purposes of this Act, except that no such employee benefit plan shall excuse the failure to hire any individual * * *." Thus, the Act authorizes involuntary retirement irrespective of age, provided that such retirement is pursuant to the terms of a retirement or pension plan meeting the requirements of section 4(f)(2). It should, however, be noted in this connection that section 5 of the Act directs the Secretary of Labor to undertake an appropriate study of institutional and other arrangements giving rise to involuntary retirement, and report his findings and any appropriate legislative recommendations to the President and to the Congress.

(81 Stat. 602; 29 U.S.C. 620. Secretary's Order No. 10-68, 33 F.R. 9729; Secretary's Order No. 11-68, 33 F.R. 9690)

Signed at Washington, D.C., this 27th day of August 1968.

CLARENCE T. LUNDQUIST,
Administrator.

[F.R. Doc. 68-10519; Filed, Aug. 29, 1968; 8:50 a.m.]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER P—RECORDS

PART 290—AVAILABILITY TO THE PUBLIC OF DEFENSE CONTRACT AUDIT AGENCY INFORMATION

Exemptions From Public Disclosure

Section 290.10 has been amended to delete subparagraph (3) of paragraph (a).

MAURICE W. ROCHE,
Director, Correspondence and Directives Division OASD (Administration).

[F.R. Doc. 68-10490; Filed, Aug. 29, 1968; 8:47 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Toppenish National Wildlife Refuge, Wash.

The following regulation is issued and is effective on date of publication in the FEDERAL REGISTER

§ 32.12 Special regulations; migratory birds; for individual wildlife refuge areas.

WASHINGTON

TOPPENISH NATIONAL WILDLIFE REFUGE

The public hunting of mourning doves on Toppenish National Wildlife Refuge is permitted on the area designated by signs and/or delineated on maps—special conditions applying are listed on the reverse side of the refuge hunting map. Maps are available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 730 Northeast Pacific Street, Portland, Oreg. 97208. Hunting shall be in accordance with all applicable State and Federal regulations.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through September 30, 1968.

JOHN D. FINDLAY,
Regional Director, Bureau of Sport Fisheries and Wildlife.

AUGUST 22, 1968.

[F.R. Doc. 68-10471; Filed, Aug. 29, 1968; 8:46 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER A—GENERAL

PART 8—COLOR ADDITIVES

Subpart D—Listing of Color Additives for Food Use Exempt From Certification

DIOCTYL SODIUM SULFOSUCCINATE AS DILUENT IN COLOR ADDITIVE MIXTURES; CONFIRMATION OF EFFECTIVE DATE

In the matter of amending § 8.300 to provide for the safe use under prescribed conditions of dioctyl sodium sulfosuccinate as a diluent in color additive mixtures for food use exempt from certification:

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c)(2), (d), 74 Stat. 399-403; 21 U.S.C. 376 (b), (c)(2), (d)) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), notice is given that no objections were filed to the order in the above-identified matter published in the FEDERAL REGISTER of July 11, 1968 (33 F.R. 9952). Accordingly, the amendment promulgated by that order will become effective September 9, 1968.

Dated: August 21, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-10496; Filed, Aug. 29, 1968; 8:48 a.m.]

PART 8—COLOR ADDITIVES

Synthetic Iron Oxide; Confirmation of Effective Date

In the matter of listing and exempting from certification the color additive synthetic iron oxide (21 CFR 8.325) for use in dog and cat foods under prescribed conditions:

1. Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c)(2), (d), 74 Stat. 399-403; 21 U.S.C. 376 (b), (c)(2), (d)) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), notice is given that no objections were filed to the order in the above-identified matter published in the FEDERAL REGISTER of July 11, 1968 (33 F.R. 9953). Accordingly, the regulation (§ 8.325) promulgated by that order will become effective September 9, 1968.

2. Effective September 9, 1968, § 8.501 *Provisional lists of color additives* (33 F.R. 982, 10844) is amended by deleting from paragraph (e) the item "Iron oxide."

Dated: August 21, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-10497; Filed, Aug. 29, 1968; 8:48 a.m.]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

O,O-diethyl O-[p-(Methylsulfinyl) phenyl] Phosphorothioate

A notice was published in the FEDERAL REGISTER of July 2, 1968 (33 F.R. 9619), proposing that a tolerance of 0.02 part per million be established for residues of the insecticide *O,O*-diethyl *O*-[*p*-(methylsulfinyl) phenyl] phosphorothioate in or on bananas.

In response to the proposal, a comment was received from the United Fruit Co., Pier 3, North River, New York, N.Y. 10006, suggesting that the portion of the preamble of said notice reading "around each cluster of the carrying plant" should have read "around each bearing or potentially productive plant and all of the adjacent suckers or followers." The Food and Drug Administration accepts the suggestion and the preamble of the proposal is accordingly considered changed.

No requests were received for referral of the proposal to an advisory committee pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act. Therefore, by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)) and delegated to the Commissioner (21 CFR 2.120), § 120.234 is amended by inserting the following tolerance after the tolerance "0.1 part per million * * *";

§ 120.234 *O,O*-diethyl *O*-[*p*-(methylsulfinyl)phenyl] phosphorothioate; tolerances for residues.

* * * * *

0.02 part per million (negligible residue) in or on bananas.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e))

Dated: August 21, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-10498; Filed, Aug. 29, 1968; 8:48 a.m.]

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

DIETHYL PYROCARBONATE

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 7H2082) filed by Metachem, Inc., 425 Park Avenue, New York, N.Y. 10022, and other relevant material, has concluded that § 121.1117 should be amended (1) to provide for the safe use of diethyl pyrocarbonate in noncarbonated soft drinks and fruit-based beverages as set forth below and (2) to make editorial changes in paragraph (b) (1) and (2). Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.1117(b) is revised to read as follows:

§ 121.1117 Diethyl pyrocarbonate.

* * * * *

(b) It is used or intended for use as a fermentation inhibitor:

(1) In still wines to be added before or during bottling at a level not exceeding 200 parts per million, of which none shall remain when the wine is tested 5 days or more after the date of bottling.

(2) In fermented malt beverages to be added before or during packaging at a level not exceeding 150 parts per million. The treated fermented malt beverage shall not contain more than 5 parts per million of diethyl carbonate when tested 24 hours or more after the time of packaging.

(3) In noncarbonated soft drinks and fruit-based beverages to be added before or during packaging at a level not exceeding 300 parts per million, except beverages or fruit juices for which standards of identity have been established pursuant to section 401 of the act. The treated beverages shall not contain more than 5 parts per million of diethyl carbonate when tested 24 hours or more after the time of packaging.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: August 23, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-10499; Filed, Aug. 29, 1968; 8:48 a.m.]

SUBCHAPTER C—DRUGS

PART 141—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

Tests Regarding Certification of Antibiotic Drugs

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and delegated to the Commissioner of Food and Drugs (21 CFR 2.120), the following new sections containing specified tests are added to Part 141:

§ 141.501 Loss on drying.

Use the method specified in the individual section for each antibiotic.

(a) *Method 1.* In an atmosphere of about 10 percent relative humidity, grind the sample, if necessary, to obtain a fine powder. When tablets, troches, or capsules are to be tested, use four tablets, troches, or capsules in preparing the sample. Transfer about 100 milligrams of the sample to a tared weighing bottle equipped with a ground-glass stopper. Weigh the bottle and place it in a vacuum oven, tilting the stopper on its side so that there is no closure during the drying period. Dry at a temperature of 60° C. and a pressure of 5 millimeters of mercury or less for 3 hours. At the end of the drying period, fill the vacuum oven with air dried by passing it through a drying agent such as sulfuric acid or silica gel. Replace the stopper and place the weighing bottle in a desiccator over a desiccating agent, such as phosphorous pentoxide or silica gel, allow to cool to room temperature, and reweigh. Calculate the percent of loss.

(b) *Method 2.* Proceed as directed in paragraph (a) of this section, except use a tared weighing bottle or weighing tube equipped with a capillary-tube stopper, the capillary having an inside diameter of 0.20–0.25 millimeter, and place it in a vacuum oven without removing the stopper.

(c) *Method 3.* Proceed as directed in paragraph (a) of this section, except dry the sample at a temperature of 110° C. and a pressure of 5 millimeters of mercury or less for 3 hours.

(d) *Method 4.* Proceed as directed in paragraph (a) of this section, except dry the sample at a temperature of 40° C. and a pressure of 5 millimeters of mercury or less for 2 hours.

(e) *Method 5.* Proceed as directed in paragraph (a) of this section, except dry the sample at a temperature of 100° C. and a pressure of 5 millimeters of mercury or less for 4 hours.

(f) *Method 6.* Proceed as directed in paragraph (a) of this section, except dry the sample at a temperature of 40° C. and a pressure of 5 millimeters of mercury or less for 3 hours.

§ 141.503 pH.

(a) *Apparatus.* Use a suitable pH meter equipped with a glass and a calomel electrode.

(b) *Standardization.* Standardize the pH meter with two buffer solutions that differ by at least 2 pH units and of which one is within 2 pH units of the expected pH value of the sample.

(c) *Sample preparation.* If necessary, dilute the sample with carbon dioxide-free distilled water to the concentration specified in the individual section for each antibiotic.

(d) *Test procedure.* Determine the pH of the sample at 25°±2° C.

§ 141.504 Crystallinity.

Use the method specified in the individual section for each antibiotic.

(a) *Method 1.* To prepare the sample for examination, mount a few particles in mineral oil on a clean glass slide. Examine the sample by means of a polarizing microscope. The particles reveal the phenomena of birefringence and extinction positions on revolving the microscope stage.

(b) *Method 2.* Proceed as directed in paragraph (a) of this section, except to prepare the sample for examination mount a few particles in mineral oil, add 1 drop of ethyl alcohol, and allow to react for about 30 seconds.

§ 141.510 Residue on ignition.

Use the method specified in the individual section for each antibiotic.

(a) *Method 1.* Place approximately 1 gram of the sample, accurately weighed, in a tared porcelain crucible and carefully ignite at a low temperature until thoroughly charred. The crucible may be loosely covered with a porcelain lid during the charring. Add 2 milliliters of nitric acid and 5 drops of sulfuric acid to the contents of the crucible and cautiously heat until white fumes are evolved, then ignite, preferably in a muffle furnace, at 500° C. to 600° C. until the carbon is all burned off. Cool the crucible in a desiccator and weigh. From the weight of residue obtained, calculate the sulfated ash content.

(b) *Method 2.* Proceed as directed in paragraph (a) of this section, except use 2 milliliters of sulfuric acid and do not use the nitric acid.

§ 141.511 Heavy metals determination.

(a) *Reagents*—(1) *Ammonia solution.* Prepare an aqueous solution containing not less than 9 grams and not more than 10 grams of ammonia (NH_3) per 100 milliliters.

(2) *6 percent acetic acid.* Dilute 60 milliliters of glacial acetic acid with sufficient water to give a solution of 1,000 milliliters.

(3) *Hydrogen sulfide solution.* Prepare a saturated solution of hydrogen sulfide by passing hydrogen sulfide into cold water for a sufficient time. It is suitable if it produces an immediate copious precipitate when added to an equal volume of 1*N* ferric chloride. Prepare a fresh hydrogen sulfide solution each time a heavy metals test is to be performed.

(4) *Lead nitrate stock solution.* Dissolve 159.8 milligrams of lead nitrate with 100 milliliters of 0.15*N* nitric acid, and dilute with water to a volume of 1,000 milliliters. Prepare and store this solution in glass containers free from soluble lead salts.

(5) *Standard lead solution.* Dilute a 10-milliliter aliquot of the lead nitrate stock solution to 100 milliliters with water. This solution must be freshly prepared each time a heavy metals test is performed. One milliliter of this standard lead solution represents a lead level of 10 parts per million in a 1.0-gram sample or 20 parts per million in a 0.5-gram sample.

(b) *Preparation of the sample.* Use the sulfated ash obtained as described in § 141.510(a). If the heavy metal limit is greater than 30 parts per million, the sulfated ash may be obtained from a 0.5-gram sample. Add 2 milliliters of hydrochloric acid to the sulfated ash and slowly evaporate to dryness on a steam bath. Moisten the residue with 1 drop of hydrochloric acid, add 10 milliliters of hot water, and digest by heating on the steam bath for 2 minutes. After cooling to room temperature, add amonia solution dropwise until a pH of 7.2 is reached, then add 2 milliliters of 6 percent acetic acid. Filter the solution, if necessary, and wash the crucible and the filter with about 10 milliliters of water. Combine the washings with the filtrate and dilute to exactly 25 milliliters with water.

(c) *Procedure.* Prepare a series of five standard lead solutions, in increments of 10 parts per million, in which the solution of lowest concentration contains 20 parts of lead per million less than the maximum limit of heavy metals permitted for the sample. Transfer the necessary quantities of standard lead solution described in paragraph (a)(5) of this section directly into metal-free 50-milliliter Nessler tubes of uniform diameter, add 2 milliliters of 6 percent acetic acid to each, and adjust each to a final volume of 25 milliliters with water. Transfer the 25-milliliter solution of the sample described in paragraph (b) of this section to another Nessler tube. Add 10 milliliters of hydrogen sulfide solution to each standard and sample solution, mix well, and allow to stand for 10 minutes. View downward over a white surface; the color of the solution of the sample should be no darker than the standard that contains the lead equivalent of the heavy metals limit of the test.

§ 141.515 Melting range or temperature.

(a) *Apparatus.* Melting range apparatus consists of a glass container for a bath of colorless fluid, a suitable stirring device, an accurate thermometer, and a controlled source of heat. Any apparatus or method of equal accuracy may be used. The accuracy should be checked periodically by use of melting point standards, preferably those that melt near the expected melting range of the product to be tested. The bath fluid is selected with a view to the temperature required, but light paraffin is used generally and certain liquid silicones are well adapted to the higher temperature ranges. The fluid is deep enough to permit immersion of the thermometer to its specified immersion depth so that the bulb is still 2 centimeters above the bottom of the bath.

(b) *Sample preparation.* If necessary, reduce the sample to a fine powder and store it in a desiccator over sulfuric acid for 24 hours. If a method for loss on drying is included in the section for the antibiotic to be tested, a sample dried by that method may be used.

(c) *Test procedure.* Use a capillary glass tube about 10 centimeters long and 0.8 to 1.2 millimeters in internal diameter with the wall 0.2 to 0.3 millimeter in thickness. Charge the tube with a sufficient amount of the dry powder to form a column 2.5 to 3.5 millimeters high from the sealed end when packed down as closely as possible by moderate tapping on a solid surface. Heat the bath until a temperature 10°±1° C. below the expected melting range is reached, then introduce the charged tube, and heat at a rate of rise of 3°±0.5° C. per minute until melting is completed. The temperature at which the column of the sample is observed to collapse definitely against the side of the tube at any point is defined as the beginning of melting, and the temperature at which the sample becomes liquid throughout is defined as the end of melting.

§ 141.520 Specific rotation.

(a) *Test procedure.* The appropriate solvent, test concentration, and polarimeter tube length are specified in the section for each antibiotic to be tested. Accurately weigh the sample to be tested in a glass-stoppered volumetric flask, dissolve in the appropriate solvent, and dilute to the specified test concentration at 25° C. Maintain the solution at 25° C. and transfer to the appropriate polarimeter tube. Determine the angular rotation of both solvent and sample solution in a suitable polarimeter, using a sodium light source or a white light source with a 589.3-millimicron filter. The zero correction is the average of the blank readings and is subtracted from the average observed rotation of the sample solution if the two figures are of the same sign, or is added if they are opposite in sign, to give the corrected angular rotation of the sample solution. The determination must be completed within one-half hour from the time the solution is prepared.

(b) *Calculations.* Determine the specific rotation, $[\alpha]$, by the following formula:

$$[\alpha]^{t}_{x} = \frac{100a}{lc}$$

where:

a=The corrected angular rotation of the sample solution in degrees at temperature t using a light source of a wavelength of x millimicrons;
l=The length of the polarimeter tube in decimeters;
c=The concentration of the solution expressed as number of grams of substance in 100 milliliters of solution.

This order, setting forth certain tests in Part 141 of the antibiotic drug regulations, is nonrestrictive and noncontroversial in nature; therefore, notice and public procedure and delayed effective date are not preprequisites to this promulgation.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER.

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: August 23, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-10500; Filed, Aug. 29, 1968; 8:48 a.m.]

PART 147—ANTIBIOTICS INTENDED FOR USE IN THE LABORATORY DIAGNOSIS OF DISEASE

Dicloxacillin Sensitivity Discs

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and delegated to the Commissioner of Food and Drugs (21 CFR 2.120), Part 147 is amended as follows to provide for the certification of sensitivity discs containing disloxacillin:

1. Section 147.1 *Antibiotic sensitivity discs; tests and methods of assay; potency* is amended:

a. In paragraphs (c)(3) and (d) by alphabetically inserting in the tables new items, as follows:

§ 147.1 Antibiotic sensitivity discs; tests and methods of assay; potency.

* * * * *

(c) * * *
(3) * * *

Antibiotic	Volume of suspension added to each 100 ml. of seed agar used for test	Suspension number	Medium	
			Base layer	Seed layer
	Ml.			
* * *	* * *	* * *	* * *	* * *
Dicloxacillin	2.5	3	E	A
* * *	* * *	* * *	* * *	* * *

(d) * * *

Antibiotic	Solvent	Standard curve (antibiotic concentration per disc)
* * *	* * *	* * *
Dicloxacillin	Water	0.64, 0.8, 1.00, 1.25, 1.56 μg.
* * *	* * *	* * *

* * * * *

2. Section 147.2(a) is amended by adding thereto the following new subparagraph:

§ 147.2 Antibiotic sensitivity discs; certification procedure.

(a) * * *

(32) Dicloxacillin: 1μg.

* * * * *

Data supplied by the manufacturer concerning the subject sensitivity discs have been evaluated. Since the conditions prerequisite to providing for certification of the discs have been complied with and since it is in the public interest not to delay in so providing, notice and public procedure and delayed effective date are not prerequisites to this promulgation.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER.

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: August 21, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-10501; Filed, Aug. 29, 1968; 8:48 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Bureau of Customs

[19 CFR Part 14]

APPRAISEMENT OF IMPORTED MERCHANDISE

Exports From Japan

On September 27, 1967, a notice of a proposed ruling regarding certain changes in the methods of obtaining information concerning the selling practices of manufacturers and sellers in Japan was published in the FEDERAL REGISTER (32 F.R. 13514).

Information presently before the Bureau of Customs warrants the withdrawal of this proposal. Accordingly, the notice of September 27, 1967, is hereby rescinded.

[SEAL] LESTER D. JOHNSON,
Commissioner of Customs.

Approved: August 22, 1968.

JOSEPH M. BOWMAN,
Assistant Secretary of the Treasury.

[F.R. Doc. 68-10514; Filed, Aug. 29, 1968; 8:49 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Parts 1060, 1068]

MILK IN MINNESOTA-NORTH DAKOTA AND MINNEAPOLIS-ST. PAUL, MINN., MARKETING AREAS

Notice of Proposed Suspension of Certain Provisions

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), the suspension of certain provisions of the orders regulating the handling of milk in the Minnesota-North Dakota and Minneapolis-St. Paul, Minn., marketing areas is being considered for an indefinite period.

The provisions proposed to be suspended are:

(1) In § 1060.61(a) of the order regulating the handling of milk in the Minnesota-North Dakota marketing area, the words "distributing" and "on routes" as they appear in the sentence preceding the proviso. As suspended, such sentence preceding the proviso would read, in part, as follows: "A plant from which the Secretary determines a greater proportion of fluid milk products is disposed of in another marketing area * * *:"

(2) In the introductory text preceding paragraph (a) of § 1068.62 of the order regulating the handling of milk in the Minneapolis-St. Paul marketing area, the paragraph designation "(a)" in the section reference § 1068.9(a), as it appears in the sentence preceding the proviso. As suspended, such sentence preceding the proviso would read, in part, as follows: "Milk received at a plant qualified as a pool plant under § 1068.9 shall be exempt from the provisions of this order if * * *:"

The provisions proposed to be suspended in Parts 1060 and 1068 relate to certain exemptions for plants and milk, respectively, which may be subject to more than one Federal order.

This suspension has been requested by the Land O'Lakes Creameries, Inc., representing a substantial number of producers on the Minnesota-North Dakota and the Minneapolis-St. Paul markets.

The petitioner requests this suspension action for an indefinite period so as to extend to supply plants the present provisions of both orders (now applicable to distributing plants) which provide for the determination as to which order a plant shall be fully regulated under when it meets the pooling standards of more than one order.

The volumes of disposition of fluid milk into both the Minnesota-North Dakota and Minneapolis-St. Paul markets from two of the proponent's supply plants (normally associated with and qualified under Order 68) are such that it is entirely possible for either plant to meet the qualifications of a fully regulated supply plant under both orders during a particular month. The suspension would result in such plant being regulated in the market in which the greater volume of milk was delivered to distributing plants during the month.

All persons who desire to submit written data, views, or arguments in connection with the proposed suspension should file the same with the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 3 days from the date of publication of this notice in the FEDERAL REGISTER. All documents filed should be in quintuplicate.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Signed at Washington, D.C., on August 26, 1968.

JOHN C. BLUM,
Deputy Administrator, Regulatory Programs.

[F.R. Doc. 68-10474; Filed, Aug. 29, 1968; 8:46 a.m.]

[7 CFR Parts 1062, 1067, 1102]

[Docket Nos. AO-10-A37, AO-10-A39, AO-222-A23, AO-237-A15-R03]

MILK IN ST. LOUIS, MO., OZARKS AND FORT SMITH MARKETING AREAS

Notice of Revised Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this revised recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the St. Louis-Ozarks marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the 10th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

PRELIMINARY STATEMENT

The hearings on the records of which the proposed amendments as hereinafter set forth, to the tentative marketing agreements and to the orders as amended, were formulated, were conducted at St. Louis, Mo., January 24, 1967, pursuant to notice issued January 13, 1967 (32 F.R. 613), and February 28, 1967, through March 3, 1967, pursuant to notice issued January 24, 1967 (32 F.R. 1042). The hearing commencing February 28, 1967, also reopened the joint hearing on the Fort Smith, Ark., and Ozarks milk orders held November 2, 1966, at Fayetteville, Ark. (Docket No. AO-237-A15); such reopening was for the limited purpose of further consideration of including Baxter, Carroll, Fulton, Izard, Madison, Newton, Searcy, and Stone Counties, Ark., in the proposed merged Ozarks-St. Louis marketing area.

The material issues on the record of the hearing relate to:

1. Merging of the Ozarks and St. Louis marketing areas, and expansion of territory now regulated by the two orders to include additional territory to be added to either the Ozarks or St. Louis market-

ing areas or to the merged marketing area.

2. Milk to be priced and pooled.
3. Classification and allocation.
4. Class I price and location adjustments.
(a) Differentials over basic formula price.
(b) Supply-demand adjustor.
(c) Location adjustments.
5. Miscellaneous and administrative changes.

The hearing commencing on February 28, 1967, with respect to the St. Louis milk order (Docket No. AO-10-A39) and the Oarks milk order (Docket No. AO-222-A23) has been reopened on three separate occasions as follows:

(1) At a hearing concerning filled milk held February 19, 1968, at Memphis, Tenn.;

(2) At a hearing concerning Class I prices held February 23, 1968, at Memphis, Tenn.; and

(3) At a hearing on a proposal to increase the Class I price by 24 cents by removing references to the Chicago supply-demand adjustor. This hearing was held June 25, 1968, at Minneapolis, Minn.

The issues of the hearing begun at Memphis on February 19, 1968, are reserved for another decision. The issues of the record of February 23, 1968, were dealt with in a decision issued April 15, 1968 (33 F.R. 6016). The issues of the hearing held June 25, 1968, were dealt with in a decision issued July 24, 1968 (33 F.R. 10744).

A recommended decision on the record of the hearings held January 24, 1967, and February 28 through March 3, 1967, except the issue of supply-demand adjustor, was issued by the Deputy Administrator March 18, 1968 (33 F.R. 4808). The issue of the supply-demand adjustor was dealt with in a decision issued April 16, 1968 (33 F.R. 6106).

Exceptions to the recommended decision of March 18, 1968, were filed by a number of parties. In light of the exceptions, changes have been made in the findings and conclusions and in the proposed order provisions. Because of the nature of the changes, the new findings and conclusions and proposed order are presented in a revised recommended decision with opportunity for interested parties to file exceptions.

The material issues, findings and conclusions, rulings, and general findings of the prior recommended decision (33 F.R. 4808; F.R. Doc. 68-3426) are hereby approved and adopted and are set forth in full herein subject to the following revisions:

1. In the findings on issue No. 1, *Marketing area*, the ninth paragraph is deleted, part of the 11th paragraph is deleted, and a new paragraph is inserted after the 34th paragraph. Following the foregoing inserted language the fourth and fifth paragraphs are revised, the seventh paragraph deleted, and part of next paragraph deleted.

2. In the findings on issue No. 2, *Milk to be priced and pooled*, part of the seventh paragraph is deleted and six new paragraphs inserted. The 14th through 19th paragraphs after the foregoing inserted material are modified, and the following findings with respect to definitions of producer-handler, route disposition, and handler are modified.

3. In the findings on issue No. 3, *Classification and allocation*, the first and second paragraphs are modified, and the language in the fifth through the ninth paragraphs is deleted and is followed by the two new paragraphs. The third and fourth paragraphs following the new paragraphs are deleted and two new paragraphs inserted. Following this insertion, the second paragraph thereafter is modified by inserting the word "written" as applicable to notice given the market administrator.

4. Under the subtitle *Receipts from handler pool markets*, two new paragraphs are inserted after the second paragraph. The fourth paragraph after such inserted material is modified, and just following a new paragraph inserted. Following such new paragraph the next paragraph is modified, and the fifth and sixth paragraphs are deleted, and a new paragraph inserted relating to incentive to make sales in other markets. The last paragraph under this subtitle is modified and four new paragraphs are added.

5. Under issue No. 4(a) *Differentials over basic formula price*, all material is revised except the last five paragraphs.

6. Under issue No. 4(b) *Supply demand adjustor*, the entire statement is revised.

7. Under issue no. 4(c) *Location adjustments*, changes are made throughout the findings.

8. Under issue No. 5, *Miscellaneous and administrative changes*, four new paragraphs are added.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearings and the records thereof.

1. *Marketing area*. Order No. 62 regulating the handling of milk in the St. Louis, Mo., marketing area and order No. 67 regulating the handling of milk in the Ozarks marketing area should be merged into a single regulation. St. Charles and Warren Counties, Mo., plus the two marketing areas as presently constituted, should be included in the merged marketing area. The order thus created should be designated as the St. Louis-Ozarks marketing area.

Two kinds of marketing area proposals were made: (1) A proposal to merge the St. Louis marketing area with the Missouri part of the Ozarks marketing area; and (2) proposals to add presently unregulated areas to either the existing marketing area or to the areas as proposed to be merged.

The proposal to merge the St. Louis and Ozarks marketing areas was made by three cooperative associations, each of which has membership on both markets. Their proposal would also add territory not now regulated, Texas and Phelps Counties in Missouri and that part of Pulaski County, Mo., not now in the Ozarks marketing area. The proposal did not include the four Arkansas counties of Benton, Boone, Marion, and Washington which are now part of the Ozarks marketing area.

Other parties proposed extensive additions to the presently regulated areas, including areas adjoining the northern and southern limits of the present St. Louis marketing area as well as areas between the St. Louis and Ozarks areas, and counties in northern Arkansas. All of the proposals dealing with a merged marketing area involved a continuous geographic area extending from St. Clair County, Ill., to southwest Missouri and in some proposals into Arkansas.

In the area adopted in these findings and conclusions, however, the marketing area would not be geographically continuous. There would be unregulated territory located between the present St. Louis and Ozarks marketing areas. Although sales areas of handlers under the two orders are contiguous or to some degree overlap in intervening areas, there is not sufficient basis in the record for extending regulation to such territory.

The merging of the two marketing areas under one regulation is desirable to foster efficient and orderly marketing of the milk of producers under both orders. A very high proportion of the producer milk now regulated under the two orders is marketed by a single marketing agency of producers. The Sloma Marketing Agency, Inc., consisting of three cooperatives, Producers Creamery Co., Sanitary Milk Producers, and Square Deal Milk Producers, is the principal marketing agency in both markets. The membership of these three cooperatives comprises approximately 90 percent of the producers on the St. Louis and Ozarks markets.

Producers in the two separate markets have common marketing problems. In several production areas, producers of both markets are intermingled and the milk of dairy farmers in such common production areas may be directed into one market or the other, depending on needs and economic handling of milk. Shifting of groups of producers from one market to another, or between plants in the same market is arranged by the three cooperative associations.

There is a need for the cooperative associations to coordinate their marketing activities in the two markets. For this purpose, operation under a single order will facilitate their marketing activities, and improve the economic handling of producers' milk. The cooperative organizations also operate a number of supply plants in both markets, or arrange for the marketing of milk of plants of proprietary operators under marketing contracts. From time to time, the cooperative marketing associations have shifted one or more plants from one regulation to the other depending upon the needs of the two markets. The merging of the two orders will also facilitate the handling of reserve milk of these markets, particularly where the reserve milk of the separate markets has been handled in the same facilities.

The combined marketing area thus constitutes a practical marketing area which will serve to promote the orderly marketing of producer milk now priced under the two orders.

The merging of present marketing areas would not result in regulation of any additional milk or handlers.

The cooperatives proposing a merger of the two orders omitted in their proposal the four Arkansas counties which are now part of the Ozarks marketing area, but did not give reasons for such omission. The findings and conclusions with respect to these four counties are included with those relating to other counties in Arkansas.

A number of proposals were made, however, to increase the regulated territory. While all of the proposed new territory generally includes extension of route sales by presently regulated handlers, most new areas proposed also include sales areas of handlers presently not regulated. In instances where new handlers would be brought under regulation if the area were expanded, the evidence does not justify the application of regulation to such additional areas.

One of these proposals was that of the cooperative associations which was designed to join the two existing marketing areas by including the intervening counties of Pulaski, Phelps, and Texas. Part of Pulaski County already is in the Ozarks marketing area which includes Fort Leonard Wood Military Reservation. A very large part of the distribution of the additional area in these counties is by Ozarks handlers; for the three counties together about 80 percent. The remainder of the sales are divided between St. Louis handlers and an unregulated handler with a plant located at Jefferson City, Mo.

It is very likely that the handler at Jefferson City would be regulated by inclusion of both Phelps and Pulaski Counties, which contain the principal population concentration in the three-county area. The presence of unregulated milk sold in these counties is not now a significant factor detracting from orderly marketing conditions. Sales by this handler were reported to amount to about 6 percent of total sales in Phelps County and 5 percent of total sales in Pulaski County outside the military reservation. Proponent cooperative associations did not claim that such sales constitute a disturbing factor. They based their request for including the counties instead on the desirability of a continuous marketing area, and overlapping of sales of St. Louis and Ozarks handlers. Neither of these reasons is compelling, and thus cannot be sufficient for bringing about regulation of a handler not now regulated. Other areas where this handler has sales likewise are not included in the marketing area as adopted herein.

The only reason given for including Texas County was to accommodate the pricing of producer milk diverted from a pool plant at Cabool, in that county. This has no direct relation to Class I disposition in the county and is not a sufficient basis for regulation. The objective as to pricing diverted milk can be accomplished by other means.

The proposal to regulate Texas, Phelps, and Pulaski Counties, therefore, is denied, except that Fort Leonard Wood, presently part of the Ozarks marketing area, should be included under the merged order.

Another proposal made by a handler would have included other additional area not now regulated. Besides Pulaski, Phelps, and Texas Counties, the handler included in his proposal the 16 Missouri counties of Audrain, Boone, Callaway, Camden, Cole, Cooper, Gasconade, Howard, Maries, Miller, Moniteau, Montgomery, Morgan, Osage, St. Charles, and Warren.

The only counties of this group which should be included in the marketing area are St. Charles and Warren Counties. In other areas proposed, there is not sufficient basis for bringing under regulation presently unregulated handlers.

The principal unregulated handler in this proposed territory operates a milk plant at Jefferson City in Cole County. Four other unregulated handlers, each having a single plant, are located at Jefferson City, Columbia, Fulton, and Moberly, Mo. The larger of the two unregulated handlers located at Jefferson City has sales in 14 of the 16 counties.

Unregulated handlers have the majority of Class I sales in Cole, Miller, and Osage Counties and the largest proportion of Class I sales in Callaway County. Kansas City handlers have the majority of the sales in Howard, Cooper, Morgan, and Moniteau Counties. A handler regulated by the Des Moines, Iowa, order has the largest proportion of the Class I sales in Boone County.

St. Louis and Ozarks handlers have the majority of Class I sales in only seven of the 16 counties: Audrain, Camden, Maries, Gasconade, Montgomery, St. Charles, and Warren. Whether such sales represent a significant part of such handlers' business was not shown. St. Louis-Ozarks handlers have no Class I sales in Boone, Cooper, Howard, and Moniteau Counties.

In the five of the seven counties where St. Louis and Ozarks regulated handlers have a majority of the Class I sales, the principal unregulated handler located at Jefferson City in Cole County sells approximately 17½ percent of his total Class I sales. Thus if these five counties were added to the marketing area this unregulated handler at Jefferson City would definitely come under regulation of the order.

The handler making the proposal to add the 16 Missouri counties, as well as Phelps, Pulaski, and Texas Counties, argued that the handlers presently unregulated in the 16-county area have an advantage over regulated handlers in that they are not required to pay for milk according to class utilization. The proponent handler asserted that the principal unregulated handler in this area pays farmers a price approximating the St. Louis uniform price at his Jefferson City location. This was verified by the unregulated handler in a statement that his pay prices are 24 cents under the St. Louis City uniform price for October through April, and 28 cents under in other months. Such prices are paid without regard to utilization.

The principal supply for the unregulated handler is furnished by one of the cooperative associations who was a proponent of the merged order. The cooperative association did not state any position as to whether the handler in question should be regulated. The association is receiving for its milk delivered to this handler approximately the same returns as if the handler were regulated.

It is concluded the record evidence is not sufficient to sustain regulation of the handlers in the proposed new area. Particularly in view of failure of proponent handlers to provide complete data as to interests of presently regulated handlers in the proposed area, regulation based on this record would not be justified.

For these reasons all counties proposed by the handler for regulation are denied, except St. Charles and Warren counties. These two counties are entirely served by St. Louis or Ozarks handlers and thus do not involve handlers not now regulated. These two counties should be added to the regulated territory in the interest of including, insofar as justifiable, areas depending primarily on regulated handlers for fluid milk supplies. This will serve to stabilize and preserve orderly marketing conditions for producer milk.

Another proposal by a St. Louis handler would add other counties in northeast Missouri. Besides the counties already considered, the handler proposed Lewis, Marion, Monroe, Ralls, Pike, and Lincoln. The information presented by proponent as to sales by regulated or unregulated handlers in these counties was not sufficiently definitive to judge whether regulation should apply. Sales by regulated handlers in the counties, as presented do not allow any analysis as to source, since there is no breakdown as to sales of individual handlers or as to what extent milk sold there is regulated under various orders. Further, there are unregulated handlers in the proposed counties, who presumably would become regulated if the counties were included in the marketing area. Certain other unregulated handlers may have fringe distribution in the area, but the information provided does not specify the extent of their sales in the proposed territory, and thus no determination as to whether they would be regulated can be made. In view of the lack of evidence in these respects, and as to the number of farmers who might supply handlers in the proposed area, there is insufficient basis for extending regulation to these counties. The proposal therefore is denied.

Other counties in southeast Missouri were proposed by the same St. Louis handler. These were Butler, Carter, Madison, Ripley, Stoddard, and Wayne Counties. In this case also the data presented by the proponent handler does not allow analysis of the source of milk sold in these counties. The data merely present an estimated division on a percentage basis between regulated and unregulated sales in each county. The sales of regulated milk in each county were assigned by proponent to a group of 14 St. Louis, Ozarks, and other handlers without any distinction as to which of these handlers had sales in a particular county. The presumed sales of the unregulated handlers also made no distinction as to which of nine different handlers had sales in each county.

The data presented by the proponent handler as to unregulated milk sold in these counties is in direct conflict with other evidence in the record to the effect that none of the unregulated handlers listed by proponent have sales in southeast Missouri. These counties are well beyond the range of sales areas of the unregulated handlers listed by proponent. The plants of two of such unregulated handlers are located in Jefferson City and the others at points more distant from southeast Missouri. It is concluded that the information provided by proponent is not sufficient basis for regulation of the area he proposed. Certain of these counties, however, were also included in the proposal of the principal unregulated handler whose plant is at Jefferson City.

The unregulated handler at Jefferson City proposed the inclusion of the Missouri counties of Carter, Dent, Iron, Madison, Reynolds, Shannon, Texas, and Wayne. The unregulated handler's sole purpose in making this proposal was to suggest a geographical connection between the St. Louis and Ozarks marketing areas, which did not include any of this unregulated handler's sales. His explanation of this proposed area was that if a geographical connection were needed to accomplish the merger that this could be done through counties that did not include any of his sales. The information provided by proponent, however, does not give any basis for regulation in these proposed counties. He did not claim that disorderly marketing conditions exist in the area he proposed. He acknowledged that he knew of no sales by unregulated handlers in the proposed counties.

It is concluded that the evidence does not justify the regulation of any of the counties in southeast Missouri requested by these two proponents.

Another proposal concerned the four Arkansas counties which are now part of the Ozarks marketing area and eight other Arkansas counties proposed to be added to the proposed merged area of the Ozarks and St. Louis orders. This proposal was made by an Ozarks handler whose plant is at Springfield, Mo. Sales are made by this handler in all of the proposed Arkansas counties including those now in the marketing area. Another Springfield, Mo., handler also has sales in all of the four Arkansas counties now in the marketing area and in six of the other counties proposed to be added.

Presently, the Ozarks marketing area includes the Arkansas counties of Benton, Boone, Marion, and Washington. The handler proposed to add the counties of Baxter, Carroll, Fulton, Izard, Madison, Newton, Searcy, and Stone.

The four counties, Benton, Boone, Marion, and Washington presently in the Ozarks marketing area, should be a part of the merged marketing area.

The data furnished by proponents give a breakdown of the source of the milk sales in each county. In the four Arkansas counties now in the marketing area, the two Springfield, Mo., handlers have about 78 percent of Class I sales in Benton County, 50 percent in Boone County, 85 percent in Marion County, and 60 percent in Washington County. It must be concluded, therefore, that these counties are substantially supplied by handlers who would be regulated by the proposed merged order.

A minority of the Class I sales in these counties is supplied by handlers regulated under the Central Arkansas milk order. Central Arkansas handlers have no sales in Benton County, but have about 25 percent of the sales in Boone County, 15 percent of the sales in Marion County, and a minor percentage in Washington County.

There is a handler located in Rogers, Benton County with sales only in this county and there are also two handlers located at Fayetteville, Ark., in Washington County which have sales in Benton, Boone, and Washington Counties. Their sales constitute 20 percent of the sales in Benton, 5 percent of the sales in Boone, and 36 percent of the sales in Washington County. In one of these counties, Boone County, a producer-handler located at Harrison in Boone County provides 20 percent of the county's sales.

From the preceding information it is apparent that the four counties of Benton, Boone, Marion, and Washington are more substantially associated with milk handling in the present Ozarks marketing area than with the handling of milk under any other order. This situation supports continuing these four counties in the Ozarks or the merged marketing area, although these counties were omitted in the proposal made by the three cooperative associations to merge the St. Louis and Ozark orders. The three cooperative associations did not offer any evidence, however, that would support the deletion of these four counties and agreed that they should be included if they were served predominantly by Ozarks handlers. If these counties were deleted from the marketing area, at least two handlers there would not be regulated. Thus, deletion of the counties would expand the area of competition of regulated handlers and unregulated handlers. This condition could result in inequitable situations for regulated handlers as compared to unregulated handlers with sales in the same areas and potentially could lead to disorderly marketing conditions. These counties, therefore, should continue to be part of the regulated area.

The other Arkansas counties proposed for inclusion in the marketing area should not be included at this time. Five of these counties, Baxter, Carroll, Madison, Newton, and Searcy, were recommended for inclusion in the recommended decision. After consideration of evidence in the light of exceptions it is concluded that inclusion, at this time, is not justified.

Milk Producers, Inc., representing dairy farmers in the Central Arkansas and Fort Smith markets, claim in their exceptions that these counties are substantially associated with the Arkansas markets. The association asked that no action be taken on these counties until there is opportunity for a further hearing to consider whether these counties should be included under the one or other of the Arkansas markets. Inasmuch as practically all the milk sold in these counties is presently regulated under either the Ozarks order or the Central Arkansas order, the consideration of these counties does not involve the question of regulation of any additional handler.

With respect to the three other Arkansas counties, Fulton, Izard, and Stone, the proponent handler qualified his support, stating that he did not intend that any marketing area expansion should bring under regulation a presently unregulated handler at Batesville, Ark. Inasmuch as the handler at Batesville, sells in each of these three counties, he would be likely to become regulated if any of them were included. The handler at Batesville does not have sales in any of the other proposed counties. In view of qualifications stated by the proponent and the record evidence, it is concluded that these three counties should not be brought under regulation at this time.

A proposal was contained in the notice for the hearing held at Fayetteville, Ark., November 2, 1966, which would have deleted Benton, Boone, Marion, and Washington Counties, Ark., from the Ozarks marketing area and transferred Benton, Boone, and Washington Counties to the Fort Smith marketing area. This proposal was not supported at that hearing and, accordingly, in a decision issued June 28, 1967 (32 F.R. 9693) the proposal was not adopted. In view of the preceding findings in this decision, deletion of the four counties from the Ozarks marketing area would not be in the interest of orderly marketing.

It is concluded that all of the milk and milk products disposed of in the defined marketing area (to be designated the St. Louis-Ozarks marketing area) is in the current of interstate commerce, or directly burdens, obstructs, or affects interstate commerce in milk and its products. The marketing area is comprised of portions of three states. Milk produced in Iowa, Wisconsin, and Illinois, is marketed in portions of the marketing area in Missouri, and milk produced in Missouri is marketed in portions of the marketing area in Arkansas.

The recommended order adopts in principle many of the provisions of the present St. Louis Order No. 62. Substantive changes from the St. Louis order provisions are explained in the findings and conclusions herein.

To accomplish the merger effectively and equitably, the assets in the custody of the market administrator in the administrative, marketing service, and producer-settlement funds established under the present orders No. 62 and 67 should be combined when the merger of the two orders is effective. Liabilities of such funds under the individual orders should be paid from the newly combined funds and obligations due to such funds under the separate orders should be paid to the combined funds under the merged order. To distribute the funds under either or both orders and accumulate the necessary reserve would entail unnecessary administrative expense with no advantage to either handlers or producers. Administrative efficiency and equity among handlers and producers can best be served by merging the funds of the two orders.

When the merger is effective, Part 1067 will be superseded by such action.

2. *Milk to be priced and pooled.* The milk to be priced and pooled under the proposed order is milk eligible for fluid consumption from sources which constitute the regular and dependable supply for the market.

The sanitary requirements relative to the production processing and sale of fluid milk are substantially the same throughout the proposed marketing area. Throughout the area, fluid milk products sold under a Grade A label must be approved by health authorities who are governed by the health ordinances and practices patterned after those prescribed by the U.S. Public Health Service Ordinance and Code. While the health ordinance of the city of St. Louis, Mo., requires additional standards, there is reciprocity of approval between the St. Louis health department and the Springfield, Mo., health department. Thus, between these two major cities of the marketing areas to be combined, a relationship of health approval exists so that the milk is interchangeable. From time to time milk supplies are shifted from the Ozarks to the St. Louis market without impediment. Further, the extensive movement of milk both in the form of packaged and bulk fluid milk products within the present marketing areas and from these areas into areas proposed to be added demonstrates the general acceptability throughout the proposed St. Louis-Ozarks marketing area of milk under the various sanitary jurisdictions.

From time to time a handler regulated under this order may receive milk from sources outside of the area under the jurisdiction of health authorities in the marketing area. Accordingly, it should be provided that milk approved as Grade A by any duly constituted health authority shall be eligible to be received as producer milk.

Certain definitions are needed in the order to identify the milk to be priced and pooled. The definitions contained in the proposed merged order follow the usual pattern of Federal orders, including definitions of "producer," "handler," and the various types of plants handling milk in the market.

There are two principal types of plant operations involved in the handling of the milk supply for the market, the first being the type of plant which processes, packages, and from which distribution is made on routes, and the second type being a supply plant which primarily serves to assemble milk for shipment to distributing plants or to handle the reserve milk for the market.

The definition of "distributing plant," applicable to plants with route disposition in the marketing area, would be essentially the same in application as the terms "city plant" and "approved plant" in the St. Louis and Ozarks order, respectively. Such plants would be approved by a duly constituted health authority for the processing or packaging of Grade A milk. A distributing plant would be either regulated or unregulated, depending upon whether it meets the requirements for pool distributing plants.

The pooling requirements for distributing plants would be much the same as in the present orders. Inasmuch as the new order would regulate the same plants as are now regulated under the two orders, and it is not anticipated that additional distributing plants would be brought under regulation, the existing pool requirements would be generally appropriate. These requirements are primarily that route disposition of the plant equal at least 50 percent of receipts of Grade A fluid milk products from various sources, with route disposition in the marketing area equal to at least 10 percent of such receipts or 7,000 pounds per day.

One change, however, would include, for meeting the 50 percent requirement, disposition of packaged fluid milk products to other pool distributing plants. Since such interplant transfer would be part of the basis for pooling the transferor plant, the quantity of packaged fluid products would not be credited in the transferee plant towards meeting the 50 percent requirement. The pooling requirement with respect to disposition in the marketing area, however, should be in terms of deliveries to retail or wholesale outlets, not to plants, since there is no certainty as to whether a packaged transfer is disposed of by the second plant in the markting area. For the latter reason the definition of route is modified from the recommended decision to exclude disposition to another plant. The credit for disposition of packaged fluid milk products to another pool distributing plant is included in the terms of the pool plant definition.

The existing provision of the St. Louis order that a distributing plant which qualifies as a pool plant by performance during one month would continue to be pooled during the subsequent month is retained to allow the plant operator this much notice that his plant may become unregulated. The order should further specify that milk diverted from the plant by the plant operator is included in the receipts for purposes of determination of pool plant status.

Cooperative associations, in exceptions, requested that no fluid milk product packaged in an other order plant be counted towards pool qualification of a plant distributing these packaged products in this marketing area. This is not adopted inasmuch as the effects of such a provision are not covered in the record.

It was also requested in exceptions that the definition of pool distributing plant include a plant receiving all of its milk supply from a plant regulated under another order. Such plant, then, would be a pool plant if it met the stated percentages or quantity requirements with respect to total route disposition and disposition in the marketing area.

No modification of the pool distributing plant definition is necessary. The definition includes receipts from "supply plants" and the latter term includes a shipping plant even if regulated under another order.

Thus, the purpose of the cooperative associations would be met. A distributing plant receiving its entire supply from a plant regulated under another order would be pooled if the distributing plant had at least 50 percent of such receipts disposed of as route disposition, and at least 10 percent of such receipts, or 7,000 pounds per day, as route disposition in the marketing area.

Although some of the route disposition of handlers to be regulated will extend beyond the boundaries of the counties proposed for regulation, it is neither practical nor reasonable to stretch the regulated area to cover all areas where a handler has or might develop some route disposition. Nor is it necessary to do so to accomplish effective regulation under the order. The marketing area herein proposed is a practicable one in that it will encompass the great bulk of the fluid milk sales of handlers to be regulated. All producer milk received at regulated plants must be made subject to classified pricing under the order, however, regardless of whether it is disposed of within or outside the marketing area. Otherwise the effect of the order would be nullified and the orderly marketing process would be jeopardized.

If only a pool handler's "in-area" sales were subject to classification, pricing and pooling, a regulated handler with Class I sales both inside and outside the marketing area could assign any value he chose to his outside sales. He thereby could reduce the average cost of all his Class I milk below that of other regulated handlers having all, or substantially all, of their Class I sales within the marketing area.

Unless all milk of such a handler were fully regulated under the order, he in effect would not be subject to effective price regulation. The absence of effective classification, pricing and pooling of such milk would disrupt orderly marketing conditions within the regulated marketing area and could lead to a complete breakdown of the order. If a pool handler were free to value a portion of his milk at any price he chooses, it would be impossible to enforce uniform prices to all fully regulated handlers or a uniform basis of payment to the producers who supply the market. It is essential, therefore, that the order price all the producer milk received at a pool plant regardless of the point of disposition.

The definition of the supply plant also would be essentially similar to the definitions in the current orders (called a "country plant" in the St. Louis order) which apply to plants shipping to distributing plants. The new definition would be more specific with respect to receipt of milk from such plant at distributing plants. The term would include also any plant operated by a cooperative association or under contract to such association, which qualifies for pooling on the basis of deliveries of member milk to distributing plants either directly from the farm or through the cooperative plant. Other supply plants would be regulated or unregulated, depending upon whether they meet the requirements for pool plants.

The pooling requirements for supply plants in the proposed merged order would be somewhat different from the requirements in either of the existing orders. The present St. Louis and Ozarks orders establish shipping requirements in terms of a percentage of the Grade A milk received from dairy farmers at a plant. The St. Louis order also allows a cooperative to qualify a plant without meeting specific shipping requirements if 50 percent of the milk deliveries of member producers during the preceding 12 months have been shipped from farms to pool distributing plants to pool supply plants of other handlers, or transferred from the cooperative's plant to city distributing plants.

Most of the supply plants currently pooled under the two orders are operated by cooperative associations or are under contract to cooperative associations. Under modified provisions applicable to plants operated by cooperative associations described in subsequent findings, all of these plants are expected to qualify for pooling on a basis that does not require a specified quantity of shipments from such plants to distributing plants. Thus, percentage shipping requirements are not expected to be relevant to pooling the existing supply plants.

The order should contain shipping requirements, however, which would apply to any other supply plant which supplies milk to the market. The requirement in the proposed order would be that any supply plant may qualify as a pool plant during any month, by shipping at least 50 percent of its receipts from dairy farmers to plants which qualify as pool distributing plants. Only plants at locations beyond the distance from which direct delivery from farms to distributing plants is practical would be expected to qualify on the basis of shipments from the plant. At lesser distances, qualification by shipments is impractical. With respect, however, to plants for which shipments are the only practical method of supplying the market, the 50 percent shipping requirement is reasonable and commonly used in Federal orders. It is necessary that such standard be established for plants which are to be pooled, for otherwise the returns from Class I sales in the market could be dissipated to sources which do not represent a regular supply for the market. It is reasonable to require that at least half of the milk receipts of a plant be used to supply the market if the plant is to be accorded pool plant status. Such a requirement compares with the 50 percent requirement cooperatives are expected to meet with respect to the milk of their members. It is concluded that the 50 percent shipping requirement is an appropriate standard for this purpose.

It is recognized that the pool supply plant handles a reserve supply for the market which would not be drawn upon as much during higher production months as during months of low production. It is therefore provided (as in the present St. Louis order) that such plant could continue to qualify during the months of March through August without shipments if it had qualified in each of the prior months of September through February on the basis of actual shipments. The Ozarks order contains a similar provision.

Higher supply plant shipping requirements were requested by the cooperative associations who asked for the merged order. Their proposal was that shipments of 60 percent of the Grade A receipts of the plant during the month of October, 70 percent in November, and lesser percentages in other months to distributing plants would be required.

The proposed higher requirements in October and November are not related to any prior experience under either of the orders, nor is it known whether they would be suitable to the operation of any plants on which the market might depend for a regular supply of milk. Such requirements would mean that the entire receipts from such a plant would be unregulated and ineligible to participate in pool returns although more than half of the milk from such plant was used to supply distributing plants. In the absence of any specific data relating the proposed percentages to the operations of particular plants or to needs of the market, the proposal seems inconsistent with the principle of pricing and pooling milk which is primarily associated with the market. The proposed higher requirements for these months therefore are not adopted.

The order should allow a cooperative association to pool a supply plant without specific shipping requirements if the major function of the cooperative is to supply milk to pool distributing plants. It shall be provided that such a plant qualify for pooling if 50 percent or more of the total producer milk of member producers is delivered to pool distributing plants either directly from farms or through association plants. Qualification as a pool plant would be allowed if the association met this percentage in either the current month or on the basis of total shipments during the 12-month period ending with the current month. A similar provision was supported by cooperative associations requesting the merger of the two orders, although their proposal required delivery of 60 percent of member milk for 12 months. Their proposal would also count deliveries to supply plants as well as to distributing plants as a basis for qualification.

The proposal by the cooperatives, except for requiring 60 percent deliveries, is the same as the provision of the St. Louis order which qualifies the plant of cooperative association if during the prior 12 months 50 percent of member producer milk is delivered to pool distributing plants, either directly or through the association plant or is delivered from farms to supply plants.

The provision for pooling a cooperative association reserve plant recognizes that most producers of the market have converted to farm bulk tanks, and therefore large quantities of milk may be moved long distances from farms to city distributing plants without moving through a supply plant. In many cases, therefore, it would be inefficient to require that the milk move through a supply plant in order for the plant to be pooled. The plants operated by the cooperative associations, nevertheless, do handle the reserve milk of the market when it is not needed at the distributing plants. Therefore, they serve a purpose similar to that of plants qualifying for pooling on a shipping basis.

While direct shipment from farms to distributing plants may ordinarily be the most efficient method of handling, some milk may move through the reserve plant to distributing plants. The pool qualifications of the cooperative plant, therefore, should be based on the combined deliveries to distributing pool plants whether through the plant or direct from members producers' farms.

An exception would need to be made if such plant qualified for pooling under another order on the basis of shipments to plants regulated under the other order. In such case, to avoid conflict with other order regulations, the plant should not be pooled under this order.

Provision that a cooperative may meet the qualification requirements either on a single-month or 12-month basis will afford flexibility to different types of operations in meeting the pooling standards. In some instances it will be possible for a cooperative to meet the requirement on a 12-month basis although in a few of the months member deliveries may fall below the required percentage. On the other hand, the single-month basis for qualification will allow a cooperative to pool a reserve plant on the first month in which it meets the percentage requirement.

A plant which qualifies for pooling on this basis in 1 month should automatically have pool status in the following month. This will, in most instances, eliminate administrative problems described in cooperatives' exceptions with respect to determination based on the current month.

The higher percentage for deliveries (60 percent) proposed by cooperative associations should not be adopted. The requirement now in the order is 50 percent. This requirement is preferable to a higher percentage for reasons similar to those relating to supply plants.

The cooperative association also proposed that a plant operated by or under contract to a cooperative association be able to qualify as a pool plant if the cooperative delivers 60 percent of the total producer milk received during the month at all pool distributing plants.

Furnishing 60 percent of the supply of all distributing plants represents a substantial supply function and identification with the market. There is a difficulty in such a pooling provision, however, since there would be no limit as to additional quantities of milk which could be pooled. If some limit applied to the quantity of reserve milk which could be associated with the plant (as suggested in cooperatives' exceptions) such limit must be essentially the same as the previously discussed pooling requirement based on delivery of 50 percent of member-producer milk to distributing plants. Thus the additional proposed pooling provision based on a combination of percentages, a percentage of distributing plants' receipts and a percentage of cooperative member milk so delivered, is not needed.

The proponents for the merged order asserted that a plant operated by or under contract to a cooperative association should be allowed to qualify as a pool plant only after meeting the requirements during every month of the preceding 12-month period. Although this provision is now in the St. Louis order it is not adopted in the proposed merged order. Such a provision would mean that while a high proportion of a cooperative's member milk is delivered to pool distributing plants during an initial 12-month period, the cooperative would nevertheless be denied the use of its plant as a reserve pool plant. It is not clear what would be accomplished in terms of orderly marketing under such restriction on a new cooperative association. It would, in fact, during the 12-month period, deny the cooperative association a reserve pool plant while current performance might well be greater than that of other cooperative associations who under such a provision are allowed reserve pool plant status for their plants. It is not necessary to limit the pooling of a reserve plant on the basis proposed. The provisions, with respect to supply plants adopted herein, would provide sufficient identification of the plant with the market to justify pooling such plants.

Cooperative associations in the market pointed out that they are in the process of merging and consolidation. The order provision for pooling a cooperative plant should give credit for deliveries from members of the individual cooperatives prior to consolidation as well as deliveries of members of the consolidated organization which is the successor in marketing function for the individual cooperatives. Also, where months prior to effective time of the merged order are involved credit should be given for deliveries by member producers in such months.

A special provision should be made for any plant which qualifies as a pool plant under the proposed order and at the same time qualifies under another order as a fully regulated plant. The present provisions of the Ozarks and St. Louis orders, with respect to such plants, should be modified to allow a distributing plant to remain a pool plant under the proposed order until the third consecutive month in which the plant makes greater Class I disposition in the other marketing area. This will afford the handler reasonable notice that the regulation of his plant will shift from one order to another unless he adjusts his operations to prevent such a shift. To avoid possible conflict of two orders, however, the effect of this provision should be limited in case the other order does not release the plant from regulation during the first 2 months of the period in which the plant makes greater disposition in such other marketing area.

Inasmuch as other orders may have similar provisions, it is provided in this proposed order to exempt a distributing plant from full regulation until the third month in which it has greater disposition in this marketing area than in another Federal order marketing area where it also qualifies as a fully regulated plant.

The order should also exempt a supply plant which meets the pooling requirements under both this and another order if greater qualifying shipments from such plant are made during the month to plants regulated under another order than are made to plants regulated under this order. Such exemption should not apply, however, if the operator of such plant chooses to retain automatic pooling status under the St. Louis order during the months of March through August. Since in these months the plant is qualified under this order without making any shipments currently, there is not an appropriate basis for deciding the applicable regulation only by comparing shipments to both markets.

The definition of producer-handler should be amplified to reflect modern dairy marketing practices and to make clear that the entire operation represents the personal enterprise and risk of the producer-handler.

A producer-handler may be allowed to receive supplemental milk from pool plants. The classification provisions of the order would assure that the value of such milk as Class I would be fully reflected in the market pool. The producer-handler should be able to supplement his own production with receipts of packaged milk from any plant regulated under another order. This receipt would be classified and priced under the other order. Thus, there would be assurance that such a source of milk for the producer-handler would not tend to undermine the pricing under this order.

A producer-handler may be allowed to receive nonfluid milk products, only to fortify fluid milk products for route disposition. The privilege to use nonfluid milk products would not extend to reconstitution of fluid milk products for Class I disposition. It would not be feasible to allow the producer-handler exemption to apply to a plant operation which thus uses other source milk items as a supply for Class I disposition, since this could result in a significant cost advantage compared to regulated handlers. Any plant disposing of reconstituted fluid milk products in the marketing area should be subject to the applicable order provisions relating to fully regulated or partially regulated plants. Similar consideration would apply if the plant operator reconstituted the skim milk portion of a milk substitute.

Producer-handlers should not receive milk from a cooperative association as a bulk tank handler. Other handlers are subject to full regulation with respect to such receipts, and are not given exemption if they have some own-farm production. This kind of receipt if allowed to a producer-handler is essentially a receipt of producer milk in a manner which accommodates the precise day-to-day Class I needs of the producer-handler. The associated reserve milk, however, remains in the market pool. This is a departure from the concept of a producer-handler as an independent operator responsible for producing his own supply and carrying his own reserve except for relatively minor supplemental purchases.

The definition of "route disposition" should be modified from the corresponding provision of the St. Louis order to put it in terms of disposition of fluid milk products.

The handler definition of the St. Louis and Ozarks orders are in most respects the same. The merged order, however, would modify the definition of a cooperative association as a handler on bulk tank milk delivered to pool plants. Both cooperative proponents and a principal handler requested that the plant operator receiving the milk be allowed to be the handler if the cooperative and the plant operator agree on such an arrangement.

The provision now in the order recognizes that a cooperative association which operates tank truck pickup routes, or which contracts for such farm pickup, would ordinarily be the only agency having direct access to the information as to individual producer milk weights and butterfat tests. The St. Louis and Ozarks orders, therefore, provide for the cooperative association to be the responsible handler to account for the receipt of such milk from producers.

Much of the milk received by plant operators, however, is under agreement with the cooperative association that payment will be on the basis of farm bulk tank measurements taken by the cooperative or its agent, and for butterfat based on samples taken from the farm bulk tank. The proposal of the cooperatives would be based on this method of payment.

In exceptions, cooperatives requested that the order provide that the plant operator normally be the handler, and no notification be required unless the plant operator decides to purchase the milk from the cooperative on scale weights. In the latter instance the cooperative would become the handler receiving the milk from producers.

The revised provision allows the cooperatives and plant operators to work under the mutual agreements as described. It requires the plant operator to be the handler receiving milk from the producers unless he notifies the cooperative and market administrator that he intends to purchase milk of the cooperative's members on a basis of weights and butterfat tests other than as determined from farm tank measurements and farm tank samples.

The definition of producer milk would be similar to the present provision in the St. Louis order. The limitation with respect to diversion, however, would require a greater proportion of a producer's deliveries to be made to pool plants. Diversion of a producer's milk to nonpool plants not regulated by another order would be allowable on any day in the months of March through August, and in other months for not more days of production of each producer than the number of days of his production physically received during the month at pool plants. On this basis the milk of a producer could be diverted in any month of the September-February period for about half of the month, providing the producer's milk was physically received during the month at least the same number of days at pool plants. Milk of a producer diverted beyond such limitation would not be producer milk.

This will provide a better identification of the producer as part of the reliable supply for the market than current St. Louis order provisions which allow diversion to an unregulated plant on any day during the months of March through August and in any other month for as much as 16 days. The present provision does not require in the September–February period any specific amount of deliveries to a pool plant during the same month in which a producer's milk is diverted.

Also the current provision with respect to diversion to other order plants allows up to 16 days' production to be diverted without any specific requirement as to the amount to be delivered from the same producer during the month to pool plants. This provision also is modified to require delivery to pool plants for a number of days of production equal to the number of days of production diverted.

The cooperatives, in supporting their proposal, claimed that existing provisions have been abused by a practice of identifying a producer's milk with a pool plant through a few days delivery, and then diverting the producer's milk to the maximum extent to a nonpool plant.

The revised provisions are expected to eliminate the incentive to continue this type of diversion. The revised provisions will allow, however, for orderly handling of market reserve milk.

3. *Classification and allocation.* The expanded St. Louis-Ozarks order should provide for two classes of milk as do the present orders. Class I milk would be principally that disposed of as route disposition of fluid milk products. Class II milk would be principally the skim milk and butterfat used to produce manufactured dairy products, milk products dumped, milk products disposed of to commercial food establishments, and shrinkage of skim milk and butterfat. This classification is for the most part similar to that in the present orders.

The modifications of the classification provisions (compared to the present orders) are relatively limited and are primarily concerned with the classification of yogurt, sour cream, dips, and sterilized products in hermetically sealed containers.

Sour cream disposed of under a Grade A label should continue to be classified as Class I milk. Under sanitary regulations in the marketing area, sour cream is required to be made from Grade A milk and the finished product must be labeled Grade A. In the present St. Louis order, sour cream products to which cheese or any food substance other than a milk product has been added and which contains not more than 15 percent butterfat is distinguished as a product type separate from regular sour cream. The order classifies such a product as Class II milk. Such sour cream mixtures, often referred to as "dips", need not be labeled Grade A. Accordingly, for purposes of classification, it is preferable to make the distinction between these products and unmodified sour cream on the basis of whether the finished product is labeled Grade A rather than on the basis of the percent of butterfat content. The present Ozarks order classifies sour cream mixtures on this basis, and the cooperative associations proposed this method of classification for the St. Louis-Ozarks order.

Sterilized products hermetically sealed in metal or glass containers, sterilized either before or after sealing so as to prevent microbial spoilage should be classified as Class II milk. Sterile products so packaged may be distributed regionally from central locations. Grade A requirements for supplies used in the preparation of the products have not been generally established. In these circumstances the product sources are not readily identifiable as related to the Grade A supply requirement of the market.

Ending inventory of fluid milk products should be classified as Class II milk. This will continue the same manner of handling inventory as now applies under the St. Louis and Ozarks orders. Both handlers and producers objected that classifying packaged inventory as Class I is inconvenient under their bookkeeping procedures. Either method provides the same net returns to producers over a period of time.

Ending inventory classified as Class II may be used as Class I in the following month. Proper adjustment of the handler's obligation is accomplished, first, by allocating beginning inventory of fluid milk products against the handler's disposition, and secondly, by charging the handler the difference between the Class II price for the preceding month and the Class I price for the current month for the quantity of beginning inventory allocated to Class I.

Determination of shrinkage is part of the classification procedure. The proposed order would require plant shrinkage to be computed for each plant of basis for all plants of a handler. Since separate reports would be required for each plant covering its receipts and utilization, the shrinkage computation for each plant would be part of this reporting procedure. Separate reports and shrinkage for each pool plant will preclude a handler operating two or more plants from offsetting shrinkage in one plant against overage in another. This requirement should apply whether or not there are transfers between the plants of the handler.

If milk products are transferred between pool plants of the same handler, the same care should be given to recording the weights and tests of milk so transferred as is given to transfers to pool plants of other handlers. Separate shrinkage computations for each plant are necessary to make the accounting requirements for the multiple pool plant operator similar to the accounting required of the operator of an individual plant.

The language of the shrinkage provision is revised to conform with the revised definition of handler. The plant operator would be allowed two percent as maximum shrinkage in Class II on producer milk for which he is the handler receiving the milk from producers' farms. This conforms to the usual situation in which there is mutual agreement between a handler and a cooperative that purchases are at farm weights and tests. The same arrangement would apply in the case of purchases from nonmembers.

If, however, the plant operator is receiving milk in tank trucks operated by or under contract to a cooperative association and decides to purchase milk from the cooperative on a basis other than farm weights and tests, he would be allowed 1½ percent shrinkage in Class II on such receipts. In the latter case the cooperative would be the first handler and would be allowed one-half percent shrinkage in Class II. The handler definition provides that a plant operator must file notice with the cooperative and the market administrator prior to delivery of the milk that he intends to receive the milk on a basis other than farm weights and tests.

It is commonly recognized that some shrinkage may occur between pickup at the farm in tank trucks and delivery to pool plants. An allowance of one-half percent is commonly allowed for such shrinkage. The new shrinkage provision would similarly allow one-half of 1 percent on milk diverted to milk plants if the plant operator does not purchase the milk on the basis of farm weights and butterfat tests.

The proposed transfer provisions are generally the same as in the present orders with few modifications. The classification of skim milk and butterfat transferred or diverted to a nonpool plant located more than 350 miles from the St. Louis city hall, however, is based on shortest highway distance, rather than on airline mileage as in the present orders. This change was proposed by the cooperative associations to conform with the manner in which milk is moved and which is recognized as the practical measurement for distances under milk orders. The 350 mile limit from St. Louis encompasses all the manufacturing facilities now used by handlers under either order for disposal of excess supplies of milk. It should also be noted that cream transferred to a nonpool plant may be classified as Class II milk if prior written notice is given to the market administrator and each container is labeled by the shipping handler as "non-Grade A" cream for manufacturing use only. This change from the present term in the orders of "Grade C" merely updates the order language to meet current trade practices.

Allocation. After the classification has been determined for all milk and milk product disposition, or use, at each plant, the class uses so determined would be allocated to plant receipts. The allocation provisions of the merged order conform closely to provisions of the St. Louis and Ozarks orders with modifications as explained herein.

In the case of a multiple plant handler, it is provided that this allocation is on an individual plant basis unless the handler has receipts of other source fluid milk products assigned to Class I under such allocation. In the latter case, it is required that allocation be made on a system basis including milk receipts and disposition at all of the handlers' plants. System allocation is necessary under the circumstances to avoid a disproportionate assignment of producer milk to the Class II milk in the handler's system. Such unfavorable allocation of producer milk to Class II would occur if the handler's receipts of the other source milk were at a plant with a higher Class I utilization than the average in his system. The system allocation will assure that receipts of other source milk to be prorated to Class I and Class II utilization will receive classification based on class use in the handler's system.

Receipts from handler pool markets. Milk received from an individual handler pool market should be allocated separately from other receipts and the receiving handler should be obligated to the producer-settlement fund for the class use value of such milk in excess of the weighted average price.

Transfers of milk from a handler pool Federal order market have been received frequently in this market during the past several years, and at times in substantial quantity. Although this milk is priced under another Federal order, it nevertheless has been a disturbing factor in the market. This is due to the certain characteristics of marketing under a handler pool order and privileges of cooperative associations in marketing and paying membership.

The attractiveness to cooperative associations to make interorder shipments, in such circumstances, depends on the Class I utilization thus obtainable. The situation here complained of by proponents relates to a higher than market average Class I utilization being assigned to the milk from the handler pool market.

The rules of assignment under the St. Louis order, for such receipts, are similar to corresponding provisions in other orders. The class use assignment is pro rata to either the marketwide percentage of Class II of all handlers (at the same stage of allocation procedure) or the receiving handler's percentage of Class II, whichever percentage of Class II is the larger. The quantity to be thus assigned to Class II shall not exceed the Class II in the handler's system, the remainder of the receipt to be assigned to Class I. Thus, if the receiving handler's Class II utilization is small, the assignment to Class I for the intermarket shipment may well be above market average.

The particular incentives for a cooperative association in a handler pool market to make Class I sales into other markets having market pools, does encourage the use of handling practices and pricing practices which, in many circumstances, tend to undermine the pricing structure of the receiving market. The proposal considered here is intended to neutralize the particular incentives and advantages associated with the transferring of milk from a handler pool market to this market to the extent that such advantages depend on circumstances other than a difference in Class I prices under the two orders. The proposal would not prevent intermarket transfers.

The proposal made by the cooperative associations in this market is that in the case of milk received at a pool plant from a handler pool market the handler should pay into the producer-settlement fund any amount by which the class use value of such milk exceeds the uniform or weighted average price. It is concluded herein that under circumstances in this market, such a payment would be a proper method of neutralizing the special advantages and incentives associated with such transfers.

The interorder transfers are arranged by a cooperative association in the handler pool market, which acts as a marketing agent for this milk whether the milk originates from members or from other farmers who qualify as producers under that order. The milk transferred is identified, however, with a plant regulated under that order, and accordingly priced under the North Central Iowa order at that location.

An essential element of the problem is that the cooperative association is able to offer the milk to handlers in the St. Louis-Ozarks market under circumstances that do not require it to recover all handling costs as well as the class prices for such milk under the North Central Iowa order. Proponents gave data showing that the price paid to the farmers supplying the milk was less than the handler uniform price calculated under the North Central Iowa order for the cooperative handler. During 1966 the average price received by those dairy farmers was about 21 cents less per hundredweight than the order blend price for the cooperative handlers. The inference is that whatever portion of the cost is not recovered by the cooperative is absorbed by members by accepting a price for their milk which is less than the handlers' order blend price.

Certain cooperative associations in the North Central Iowa market, in exceptions, claimed that the milk was transferred at higher than North Central Iowa order prices. They claimed, further, that payments made to their producers at less than order blend prices were due to blending with lower returns for sales in another Iowa market. On the record, these exceptors did not testify, nor are there data substantiating these claims. Exceptors did not controvert that the transferred milk has the advantage of higher than market average utilization.

There is a particular incentive for a cooperative in a handler pool market to dispose of milk in other markets, because there is a direct relationship between the association's Class I disposition in all markets and the returns to its member producers. None of the returns from such Class I disposition need be shared with other producers in the market as in the case of market pooling. Thus, each Class I disposition in the cooperative handler can make in another market may provide a direct reward to members in the form of a higher blend price.

There may be greater incentive for such association to increase Class I sales in other markets rather than its home market. The opportunity for increasing Class I sales in the home market may be very limited, particularly if the association is already furnishing most of the supplies in the market. Further, there may be reluctance to disturb the competitive situation in the home market.

In addition, the objective of a handler under an individual handler pool order (whether or not a cooperative association) disposing of milk in another market may be principally to dispose of reserve supply. In this manner he avoids the depressing effect on his blend if such milk were used for manufacturing purposes. On the other hand, such sales to a market pool market depress the uniform price to producers in the market pool.

Under an order with a market pool, such incentives do not exist to the same degree for a cooperative association as a handler to dispose of reserve milk in another market. To the extent that the returns for such sales must be shared in the market pool with producers who are not members of the association, the benefits are diminished.

There is incentive to make Class I sales in other markets even if all costs of handling are not recovered. The gain from higher Class I use can exceed the loss of handling charges not recovered. Such opportunity to gain higher returns for members even while absorbing losses on handling is a particular characteristic of a handler pool market, since the returns from all sales may go directly to members and need not be shared with other producers.

The proposed provision applicable to the quantity of handler pool milk received would require payment into the producer-settlement fund of any excess of utilization value over the weighted average price. This would serve to neutralize the special advantages, as described, which would otherwise accrue to the pool handler so obtaining a supply for fluid use and the supplier(s) in the handler pool market. Such special advantages to receiver and supplier would be likely only when the receiving handler has a utilization higher than the normal Class I utilization level in the St. Louis-Ozarks market. If the receiving handler's utilization were the same as the market average, the transfer would not likely provide a means for the supplier in the handler pool market to improve his utilization, and thus such special advantages to the receiver and supplier(s) would be voided by this circumstance. In no case should a reverse equalization payment apply if the classification of the intermarket transfer represents a value less than the weighted average price, since any payment out of the pool would be a depletion of the funds in a manner tending to support procurement for surplus use.

The proposed provision would require that the receiving handler pay into the producer-settlement fund part of the class use value of the milk he received from the handler pool. The remaining money value would not be a money obligation against the handler under the St. Louis-Ozarks order.

The classification of milk received from other order markets would be reported by the market administrator in this market to the market administrator of the shipping market. Such a system of intermarket information is commonly provided in all orders and provides the basis in the shipping market for establishing the shipping handler's obligation.

In this case, the market administrator would report a classification of the milk from the handler pool market. This classification would be Class I and Class II in the same percentages as the average utilization in the St. Louis-Ozarks pool. If the market average utilization is not available at the time the report is to be made the order provides (as now provided in the St. Louis and Ozarks orders) for the market administrator to make an estimate of the market utilization.

The market average utilization is appropriate as a basis for classifying the receipt from the handler pool market, inasmuch as the payment required of the receiving handler reflects the difference of the classification of the milk in his plant as compared to average utilization in the market.

The method of determining the classification here provided is more direct than the method provided in the recommended decision.

4(a) *Differentials over basic formula price.* The price for Class I milk should be established for two price zones in the marketing area, and should be subject to location differentials outside the marketing area. A specific differential of 27 cents should apply to supply plants in the area of southwest Missouri which has served as a supply area for St. Louis.

The Zone Class I price should be as follows:

(1) In Zone I of the marketing area (all of the marketing area except the Missouri counties of Bollinger, Cape Girardeau, St. Francois, Perry, and Ste. Genevieve): the basic formula price of the preceding month plus $1.40 and for the period through April 1969 plus an additional 20 cents.

(2) In Zone II (the Missouri counties of Bollinger, Cape Girardeau, St. Francois, Perry, and Ste. Genevieve): the Zone I price plus 15 cents.

The Zone I price is the Class I price made effective under the St. Louis order by amendments effective May 1, 1968 (33 F.R. 6519), and August 1, 1968 (33 F.R. 10938). This price level also applies now under the Ozarks order to plants in the Arkansas portion of the marketing area. The Zone II price also is already effective for all plants in that zone regulated by the St. Louis order.

The Class I price to apply at supply plants in southwest Missouri approximates the level which applies currently to such plants in this area under the two orders. The principal change in the Class I price within the area to be regulated, therefore, is an increase of 25 cents applicable to pool distributing plants in southwest Missouri. There are two such plants located at Springfield, Mo.

The merging of the two marketing areas provides a basis for a broader area within which a single price level may apply. Presently the pricing under the two orders results in a Class I price 25 cents lower in a part of the proposed marketing area (southwest Missouri) which intervenes between two parts of the marketing area where the price is higher. A single class I price for all pool distributing plants throughout this large part of the marketing area is desirable to provide the same cost of Class I milk supplies to the handlers located here. Other pricing provisions relating to supply plants would aid in developing full use of supplies in this area.

The price of Class I milk within the marketing area then would conform also with the regional price relationships. The presently lower price intervening between the higher prices at St. Louis and in Arkansas is opposite to the regional pattern of graduated increases from lower price levels in surplus areas to the north of this market, to higher prices in less intense milk production areas to the south.

The only two pool plants which would be affected by the price increase have extensive distribution into Arkansas in the direction of higher priced markets. The Class I price which would apply at the plants of these two handlers would, nevertheless, be 34 cents less than the price at Little Rock, Ark., under the Central Arkansas order and 35 cents less than the Class I price at Fort Smith, Ark., under the Fort Smith order. The increase in the price level for southwest Missouri, therefore, would not be a hinderance to reasonable intermarket relationships in the southerly direction.

The Class I price at supply plants in southwest Missouri should continue to be closely similar to present prices based on distance from St. Louis. All of these plants which have been supply plants on either the St. Louis or Ozarks market should be included in a southwest Missouri zone to provide for such differential pricing of Class I milk. A minus differential of 27 cents applicable to supply plants in this zone would approximate an average of the differentials which have applied in this area. Supply plants in this zone represent a reserve supply for St. Louis and differential pricing must be provided because of the cost of shipment to St. Louis.

The minus 27-cent differential is the same as proposed by cooperative associations to apply to Class I milk shipped from these plants to St. Louis. In the provisions adopted herein, however, the differential would apply to any Class I milk at these plants, subject to the limitations of assignment of shipments to Class I in the transferee plant. The zone to be designated as Zone A for location pricing purposes would include the Missouri counties of Barry, Christian, Douglas, Green, Howell, Laclede, Lawrence, Ozark, Stone, Taney, Texas, Webster, and Wright.

This system of differential pricing is based on the customary differentials for this area in relation to St. Louis and to accommodate the customary method of marketing milk from this area for Class I uses.

The producer proposal to apply a Class I price in southwest Missouri 31 cents higher than at St. Louis is not adopted. The principal basis for the proposal was the desire to provide a better price relationship with the Arkansas markets and other markets to the south.

The Class I prices adopted herein provide more appropriate relationship with the markets to the south than the price level proposed by producers. A higher price level than here adopted would be contrary to the relative supply conditions of this area compared to Arkansas markets. Supplies for Class I use are relatively more ample in southwest Missouri than in the Arkansas markets.

Under the provisions adopted herein all Class I milk in each plant would have the same price irrespective of its ultimate use at some other location. The producer proposal to have several prices for milk in the same plant is impractical and would prevent formulation of a consistent method of location pricing. On the other hand, the method of pricing adopted herein provides uniformity among handlers distributing milk in the area while yet allowing opportunity for supplies in excess of local needs to move to other areas.

The pricing system adopted herein differs from that in the recommended decision which would have maintained the existing minus 25-cent differential at Springfield, Mo., as compared to St. Louis. The single price level at these two locations here adopted is favored for the reasons previously cited. Producer groups in their exceptions stressed that a lower price at Springfield than at St. Louis under the same order would result in extreme difficulty in maintaining marketing relationships with handlers under this order as well as with producer groups in other surrounding markets.

The amount of price differences compared with markets to the south of the market were reduced by the removal, August 1, 1968, of the effect of the minus 24-cent factor representing the old Chicago order supply-demand adjustor. The pricing modifications adopted here further reduce intermarket differences.

No change would be made in the basic formula price from that now effective under the St. Louis order. The basic formula price is the price for manufacturing grade milk in Minnesota and Wisconsin adjusted to 3.5 percent butterfat test. It is provided, however, that through April 1969, for the purpose of computing the Class I price the minimum basic formula shall be $4.33.

It was proposed that the Class I butterfat differential be reduced to the level of the Class II butterfat differential. This proposal should not be adopted.

The present Class I butterfat differentials in the two orders are identical. They are determined for each month by multiplying the Chicago 92-score butter price by 0.12. The Class II butterfat differentials, also identical in both orders, are determined by multiplying the Chicago butter price by 0.115. The resulting butterfat differentials apply to each one-tenth of a percent of butterfat above or below 3.5 percent.

Producers contended that lower butterfat differentials for Class I milk would encourage use of more butterfat in fluid milk disposition and would increase sales of cream. This was intended to bring about a closer balance between butterfat content of producer milk and utilization of butterfat in Class I milk.

It was not clear from testimony whether proponents expected that the adoption of their proposal would materially affect returns to producers. It is apparent, of course, that reducing the Class I butterfat differential would to some extent increase skim milk values. Proponent cooperatives did not offer specific testimony to justify such increase.

When the Class I value of butterfat is the same as the Class II value no essential monetary gain for producers is made if handlers shift a proportion of their butterfat use from Class II to Class I. There is no basis here to conclude that higher butterfat content of Class I milk products would stimulate sales. In some respects consumers have shown increasing preference in recent years for fluid products with lower average butterfat content. Since the evidence is inadequate to make a determination that any benefits would result from the producers' proposal, and it could reduce returns, the proposal is not adopted.

(b) *Supply-demand adjustor*. A decision in this matter was issued April 16, 1968 (33 F.R. 6106), and the St. Louis order was amended effective May 1, 1968 (33 F.R. 6527), eliminating the supply-demand adjustor.

(c) *Location adjustments*. The location differential system would be modified from existing order provisions. The mileage used would be shortest highway mileage as determined by the market administrator rather than airline miles. This change was proposed by a cooperative association to conform with the manner in which the milk is moved and in recognition that this is the normal method in which distances are measured under milk orders. The location adjustments at pool plants outside the marketing area would be based on such mileage distance from the city hall in St. Louis, Mo., or the city hall in Springfield, Mo., whichever is nearer. With the extension of the St. Louis City price level to southwest Missouri, it is necessary to have a location basing point at Springfield as well as at St. Louis. It would not be appropriate to calculate a location adjustment from St. Louis for a pool plant outside the marketing area and shipping to the Springfield area if the shipping plant were substantially closer to Springfield. The rate of location adjustment outside the marketing area and more than 30 miles from such basing point would be 1.5 cents for each 10 miles or fraction thereof of distance. At pool plants in the marketing area, location adjustments to handlers are provided by establishing differential Class I prices for designated zones. One of the differential zones would include Texas County, Mo., which is outside the marketing area so that the prices at the Cabool plant would be the same as for other supply plants in southwest Missouri.

All of the location price adjustments, whether based on the distance from St. Louis city hall, Springfield city hall, or the location of the plant within the zone, would apply to the handler's obligation for Class I milk. The same adjustments would apply to the uniform price paid to producers except that no adjustment would apply to the milk delivered to supply plants in the southwest Missouri zone where the minus 27-cent differential applies to handler's obligations. Producers delivering to these plants are intermingled with producers delivering to pool distributing plants where no differential applies. Producers delivering to both types of plant should receive the same uniform price. A differential price for milk delivered to the supply plants would discourage deliveries to these plants, and be disruptive of orderly movement of milk to the several plants to most effectively furnish the requirements of handlers and dispose of reserve milk.

The proposed system of location adjustments reduces the amount of adjustment at points more than 30 and less than 40 miles distant from the St. Louis city hall from 16 cents to 6 cents. There is no basis for a greater rate of adjustment at such location than for more distant locations. Distributing plants serving the main metropolitan area are located in the marketing area less than 30 miles from the city hall. It is public knowledge that the one small operation within the 30–40-mile zone in Missouri has discontinued operations. As under the present St. Louis order, no location adjustment should apply to plants located within 30 miles of the St. Louis city hall. In the nearby areas in Illinois, the St. Louis order provides a location adjustment of minus 10 cents for those locations in Madison, Monroe, and St. Clair Counties, and in Looking Glass, St. Rose, Breese, or Germantown Township in Clinton County, which are more than 30 miles from the city hall in St. Louis. All of this area is within a radius of 40 miles from St. Louis, Mo., and thus the revised location differentials would provide lesser deductions within this area, depending on the distance from St. Louis. This would result in a better coordination of pricing with the Southern Illinois order at all known plant locations.

No change should be made in the application of location adjustments to milk received at plants in Cape Girardeau, Perry, or St. Genevieve Counties, Mo. (Zone II). Producer associations proposed that the uniform price at such plants reflect the plus 15 cents over the St. Louis location only in the same proportion as producer milk received at such plants is used as Class I. This, however, would be inconsistent with the relative values of producer milk as delivered at the various locations of regulated plants. Testimony of proponent producer groups supported a differential of at least 15 cents between Cape Girardeau and St. Louis with respect to Class I prices. A like differential should apply to producer uniform prices to be consistent with such differential value and thus assure delivery of adequate supplies according to fluid needs.

Location adjustments to handlers apply only to Class I milk. Thus, at a plant where the order specifies a minus location adjustment, the Class I price for route disposition from such plant is reduced at the indicated rate per hundredweight. When a supply plant, at which a minus location adjustment applies, ships milk to another plant the question arises as to what part of such transfer should be subject to location adjustment credit. Still another problem arises in the case of a multiple-plant handler when the order requires that the allocation of his class uses be on a system basis rather than on individual plant basis.

Location adjustments in the case of transfers of fluid milk products between pool plants should apply to the extent that such transferred quantities are needed to supply the Class I requirements of the transferee plant.

The St. Louis order provision now assigns the Class I milk of the transferee plant (excluding Class I assigned to receipts from nonpool plants) first to direct receipts from producer's farms (up to 95 percent of such receipts) and then assigns remaining Class I to the transfers from pool plants with least minus location. This is for the purpose of preventing deductions for location allowance on shipments not needed for Class I.

At the hearing, producer cooperative associations proposed a different method of assigning location differentials to transfers between plants. They would continue the assignment to shipments from nearest plants, but would include in this determination the shipments from nonpool plants as well as pool plants.

The difficulty with the proposed assignment is that the amount of location allowance, which is in fact deducted from the value of the market pool, would reflect Class I quantities assigned to nonpool sources. This method thus would be inconsistent with the allocation of class use to pool and nonpool receipts, and would not serve the essential purpose of limiting location allowance on pooled milk to the quantity needed to be transferred for Class I requirements. In the provision adopted, therefore, the quantities of Class I milk allocated to other source milk are excluded from the computation of location differentials applicable to transfers between pool plants.

The provision adopted is virtually the same as the present St. Louis order provision which has provided adequate incentive for interplant movements. In the adopted provision, assignment of location differentials to milk transferred between pool plants is based on the quantity of Class I milk remaining in the transferee plant after excluding Class I assigned to other source milk and after deducting from Class I the quantity of milk received directly from producers (up to 95 percent of such receipts).

There are circumstances involving the operator of two or more plants which require that the allocation provisions of the order apply to such a handler on a "system basis" rather than on an individual plant basis. A method is therefore provided in the order to assign Class I milk of the handler's system to individual plants for the purpose of location adjustments.

Minus location differentials to handlers on Class I milk are credited from pool funds and are deductible from Class I values computed at the f.o.b. market Class I value in Zone I (St. Louis area). Such credit should be held to the minimum which will accommodate only the movement of milk needed to fulfill the requirements of the Class I market. Any greater deductions for transportation would unnecessarily lower returns to producers.

It was proposed by producer cooperative associations that milk diverted to distant nonpool plants be priced at the location of the nonpool plant. Their proposal would apply to milk diverted more than 120 miles from St. Louis. At any lesser distance from St. Louis, the milk would be priced at the location of the plant from which diverted. For milk diverted to the plant at Eldorado Springs, Mo., they requested that the price be the same as at other plants in southwest Missouri.

The proposed order will price milk diverted to nonpool plants more than 120 miles from the city halls of St. Louis, Mo., or Springfield, Mo., whichever is nearer, at the location of the plant to which diverted. At lesser distances the pricing would be at the plant from which diverted. A basing point at Springfield as well as St. Louis should be used in view of the extension of the St. Louis price level to southwest Missouri. The distance of 120 miles would encompass Eldorado Springs.

Without such a provision, a relatively distant producer could be diverted much of the time to a plant near the producer while yet receiving the marketing area uniform price, based on diversion from a marketing area plant.

The higher uniform price established for milk delivered to marketing area plants than for milk at distant pool plants provides the necessary incentive for deliveries to the marketing area when milk is needed there. The purpose of this incentive would be defeated, therefore, if a producer were paid at the marketing area price for milk delivered, not to the marketing area, but to distant plants.

Milk diverted from a pool plant to another pool plant should in each case be priced to handlers and producers at the location of the plant to which diverted. There is no essential difference in the physical handling between milk received by a plant operator at his plant from his producers and milk received as diverted from other pool plants. Identical pricing for both types of receipts is therefore appropriate, and will prevent any advantage to a handler on milk received as diverted from a plant with a lower Class I price.

Milk diverted to another order plant does not involve a problem of location adjustment of class prices to the diverting handler since such diversions are limited to Class II milk.

5. *Miscellaneous and administrative changes.* In general the present St. Louis order has been used to construct the provisions of the order for the merger of the St. Louis and Ozarks orders. However, certain parts in addition to those specifically referred to herein have been revised to make all provisions more compatible with present marketing conditions in the handling of milk in the proposed area. The provisions referred to here do not change substantially the effect of the provisions of the order but merely serve to update the order language.

The present St. Louis order under the subject heading of "Reports of Receipts and Utilization" requires that a handler report, in addition to the information specifically required, such other information with respect to receipts and utilization of skim milk and butterfat as the market administrator may prescribe. This provision is included in the order recommended herein. A handler objected to this provision on the basis that it gave the market administrator too broad authority. However, this handler could not cite any instances where he thought such authority had been abused. This provision is used in most all Federal milk orders as a means of providing the market administrator an opportunity to seek all necessary information to verify handlers' reports of receipts and utilization and should be adopted as proposed herein.

Several miscellaneous changes from order language in the recommended decision are needed to assure the effectiveness of the various order provisions.

Cream transferred for Class II use to points beyond 350 miles from St. Louis city hall should be conditioned on prior written notice to the market administrator.

In making payments out of the producer-settlement fund it is provided that the market administrator shall offset any payment due any handler against payments due from such handlers. It should be specified that the offsets may be against payments due from the handler with respect to amounts due the producer-settlement fund, amounts due because of errors in payment, and amounts due for marketing services and expense of administration.

When verification by the market administrator discloses an error in payment by a handler to the producer-settlement fund, it is provided that the market administrator promptly bill the handler for any deficiency. Payment should be required within 30 days of such billing.

(a) *Exempt plants.* A milk plant operated by a governmental agency should be exempt from all provisions of this order. The record indicates there are several colleges and state institutions which maintain dairy herds and/or processing plants. These herds are kept in connection with the research and educational functions or for other reasons. Milk produced by the dairy herds at these governmental institutions is primarily for use at such institutions. These operations are relatively self-contained, with only small quantities of milk interchanged with other parties in the market.

Regulation of such an operation could be disruptive to the purposes of such agency's dairy operations and would not serve any useful purpose in effective order regulation for the market. It is provided, however, that any fluid milk products transferred or diverted from pool plants to an exempt plant operated by a governmental agency be classified as Class I milk. It is reasonable to assume that purchases by such agencies in the form of fluid milk products would be needed and used for Class I purposes. It is further provided that milk received at a pool plant from an exempt governmental agency be assigned first to Class II milk in the pool plant. Milk sold from a governmental agency to a pool plant clearly represents surplus to the institutions production, processing and consumption operations and moreover does not represent a reliable supply for the market and thus should be classified as Class II milk.

(b) *Payments to producers.* Certain dates with respect to announcement of payments to various funds and to producers should be adopted as proposed by proponents at the hearing. The dates as adopted herein would require each handler to make payment on or before the 17th day after the end of the month, during which the milk was received, to each producer for whom payment is not made to a cooperative association. Partial payments to producers and to cooperative associations in payment for milk received during the first 15 days of the month should be made on or before the last day of each month. It is provided that the responsibility for classification of producer milk received from a cooperative association in its capacity as a handler of bulk tank milk is that of the operator of the pool plant. Such producer milk is assigned to the plant operator's utilization at the plant where received. The value of the milk as provided herein is included in the plant operator's net pool obligation at class prices. In turn the pool plant operator is required to pay the applicable market uniform price to the cooperative association for such milk. The plant operator is also responsible for paying the administrative assessment applicable to such milk. The procedures herein provided make for specific accountability on the part of cooperative associations and the operators of pool plants with respect to bulk tank milk under the control of cooperative associations. With operators of pool plants responsible for equalization in the marketwide pool with respect to such receipts from cooperative associations, classification and auditing procedures are simplified in the administration of the order.

(c) *Market services.* A marketing service deduction of 6 cents per hundredweight should be provided in the merged St. Louis-Ozarks order.

The present orders provide a maximum deduction of 5 cents per hundredweight for marketing services to be used by the market administrator to verify weights, samples and tests of milk received from producers and to provide them with market information.

There are approximately 100 producers at the present time not members of a cooperative association, equal to less than 3 percent of the total number of producers in the combined St. Louis-Ozarks markets. These producers deliver milk to 11 different pool plants scattered throughout the merged marketing area.

For the most part, the market administrator presently employs cooperative associations to check the butterfat tests of producers who are not members of cooperative associations. These associations, however, have informed the market administrator that they cannot continue the check testing of butterfat at the rate now paid by the market administrator. Estimated costs of check testing these butterfat samples from a central laboratory exceed the present 5 cents per hundredweight rate. In this estimated cost no allowance was made for checking the accuracy of weights obtained at the farm from bulk tanks. The testimony also showed that for the most part there are no laboratories for employment to render such services.

Since the present number of producers that are not members of a cooperative association are few and scattered throughout the marketing area, it is reasonable to permit a maximum deduction for marketing services at 6 cents per hundredweight. It should be noted, however, that both the present and the proposed order provide that the Secretary may prescribed a lesser rate should the 6-cent rate produce more money than needed for the intended purposes.

(d) *Administrative expense.* The present rate of deduction for expense of administration should be 2.5 cents per hundredweight or such lesser amount as prescribed by the Secretary.

The maximum rate now provided in the Ozarks order for administrative expense is 5 cents per hundredweight but through administrative action only 1.5 cents per hundredweight is currently being assessed for the administration of the order. The maximum assessment now provided in the St. Louis order is 2.5 cents per hundredweight with 2 cents per hundredweight being the current assessment.

The rate of 2.5 cents per hundredweight should be adequate for the combined and expanded new order. The assessment, as now, should apply to each handler's receipts of producer milk including his own production, receipts from a cooperative association in its capacity as a handler of bulk tank milk and the quantity of unregulated other source milk allocated to Class I milk.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreements and the orders, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing areas, and the minimum prices specified in the proposed marketing agreements and the orders, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreements and the orders, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended Marketing Agreement and Order Amending the Orders

The following order amending the orders, as amended, regulating the handling of milk in the St. Louis, Mo., and Ozarks marketing areas is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended.

The provisions of the proposed marketing agreement and order contained in the recommended decision issued by the Deputy Administrator on March 18, 1968, and published in the Federal Register on March 21, 1968 (33 F.R. 4808; F.R. Doc. 68-3426), shall be and are the terms and provisions of the proposed marketing agreement and order, and are set forth in full herein subject to the following revisions:

1. Section 1062.6 is revised.
2. Section 1062.7 is revised.
3. Section 1062.8(d) is revised.
4. In § 1062.12 paragraphs (a)(1), (b) (1), (3), and paragraph (d) are revised.
5. Section 1062.14 is revised.
6. Section 1062.16 is revised.
7. In § 1062.22, paragraph (m) is revised.
8. In § 1062.30 paragraph (a)(3) is revised.
9. In § 1062.41, paragraph (a)(2) is deleted, subparagraph (3) is renumbered as (2), and paragraphs (b) (8), (9), and (10) are revised.
10. In § 1062.44 paragraphs (a) (1), (2), and (3), paragraph (c) and paragraph (e)(2) are revised.
11. In § 1062.45 paragraphs (c) and (d) are revised.
12. In § 1062.46, paragraph (a)(3) is deleted and subsequent subparagraphs renumbered. A new subdivision (iii) is added to paragraph (a)(4) as renumbered. Paragraph (a)(9) as renumbered is revised.
13. Section 1062.50 is revised.
14. Section 1062.51 is revised.
15. Section 1062.53 is revised.
16. In § 1062.70 paragraph (d) is deleted and the subsequent paragraphs redesignated.
17. Section 1062.82 is revised.
18. Section 1062.84 is revised.
19. Section 1062.85 is revised.
20. Section 1062.86 is revised.
21. Section 1062.88 is revised.

Definitions

Sec.
1062.1 Act.
1062.2 Secretary.
1062.3 Department.
1062.4 Person.
1062.5 Cooperative association.
1062.6 St. Louis-Ozarks marketing area.
1062.7 Producer.
1062.8 Handler.
1062.9 Producer-handler.
1062.10 Distributing plant.
1062.11 Supply plant.
1062.12 Pool plant.

Sec.
1062.13 Nonpool plant.
1062.14 Producer milk.
1062.15 Other source milk.
1062.16 Fluid milk product.
1062.17 Route disposition.
1062.18 Chicago butter price.

MARKET ADMINISTRATOR

1062.20 Designation.
1062.21 Powers.
1062.22 Duties.

REPORTS, RECORDS AND FACILITIES

1062.30 Reports of receipts and utilization.
1062.31 Payroll reports.
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1062.33 Records and facilities.
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CLASSIFICATION

1062.40 Skim milk and butterfat to be classified.
1062.41 Classes of utilization.
1062.42 Assignment of shrinkage.
1062.43 Responsibility of handlers and reclassification of milk.
1062.44 Transfers.
1062.45 Computation of skim milk and butterfat in each class.
1062.46 Allocation of skim milk and butterfat classified.

MINIMUM PRICES

1062.50 Basic formula price.
1062.51 Class prices.
1062.52 Handler butterfat differentials.
1062.53 Location differentials to handlers.
1062.54 Use of equivalent prices.

APPLICATION OF PROVISIONS

1062.60 Exemptions.
1062.61 Plants subject to other Federal orders.
1062.62 Obligations of handler operating a partially regulated distributing plant.

DETERMINATION OF UNIFORM PRICE TO PRODUCERS

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1062.71 Computation of uniform prices.
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1062.80 Time and method of payment.
1062.81 Butterfat differential to producers.
1062.82 Location differential to producers and on nonpool milk.
1062.83 Producer-settlement fund.
1062.84 Payments to the producer-settlement fund.
1062.85 Payments out of the producer-settlement fund.
1062.86 Adjustment of errors in payments.
1062.87 Marketing services.
1062.88 Expense of administration.
1062.89 Termination of obligation.

MISCELLANEOUS PROVISIONS

1062.90 Effective time.
1062.91 Suspension or termination.
1062.92 Continuing power and duty of the market administrator.
1062.93 Liquidation after suspension or termination.
1062.94 Agents.
1062.95 Separability of provisions.

DEFINITIONS

§ 1062.1 Act.

"Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

§ 1062.2 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

§ 1062.3 Department.

"Department" means the U.S. Department of Agriculture.

§ 1062.4 Person.

"Person" means any individual, partnership, corporation, association, or any other business unit.

§ 1062.5 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To be engaged in making collective sales, or marketing milk or its products for its members.

§ 1062.6 St. Louis-Ozarks marketing area.

"St. Louis-Ozarks marketing area", hereinafter called the marketing area, means all the territory within the designated military reservations, the corporate limits of the cities and the counties enumerated below:

ZONE I

(MISSOURI COUNTIES)

Barry.	Ozark.
Christian.	St. Charles.
Crawford.	St. Louis.
Douglas.	Stone.
Franklin.	Taney.
Greene.	Warren.
Howell.	Webster.
Jefferson.	Washington.
Laclede.	Wright.
Lawrence.	

and the city of St. Louis, Mo., Fort Leonard Wood Military Reservation in Missouri, and the territory within Scott Military Reservation, East St. Louis, Centerville, Canteen, and Stites Townships, and the city of Belleville, all in St. Clair County, Ill.

(ARKANSAS COUNTIES)

Benton.	Marion.
Boone.	Washington.

ZONE II

(MISSOURI COUNTIES)

Cape Girardeau.	Perry.
Bollinger.	Ste. Genevieve.
St. Francois.	

§ 1062.7 Producer.

"Producer" means any person (other than a producer-handler as defined in any order including this part issued pursuant to the Act, or a person who is a producer under the terms of another order issued pursuant to the Act) who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority and whose milk is:

(a) Received at a pool plant (excluding milk received as a diversion from another order plant which is allocated to Class II pursuant to § 1062.46(a)(4)(iii)); or

(b) Diverted as producer milk pursuant to § 1062.14.

§ 1062.8 Handler.

"Handler" means:

(a) Any person who operates a pool plant;

(b) Any person who operates a partially regulated distributing plant;

(c) Any cooperative association with respect to milk of its member producers which is diverted from a pool plant of another handler to a nonpool plant for the account of such association;

(d) Any cooperative association with respect to producer milk transferred from the producer's farm tank to a tank truck owned and operated by or under contract to such association for delivery to a pool plant if prior to delivery the operator of the pool plant gives notice in writing to both the market administrator and the association of his intention to purchase such milk on a basis of weights and butterfat tests other than as determined from farm tank measurements and farm tank samples;

(e) A producer-handler, or any person who operates an other order plant described in § 1062.61.

§ 1062.9 Producer-handler.

"Producer-handler" means any person who is both a dairy farmer and the operator of a distributing plant, and who meets the qualifications specified in paragraphs (a) and (b) of this section:

(a) Receipts of fluid milk products at his plant are solely milk of his own production, fluid milk products from pool plants of other handlers, packaged fluid milk products from other order plants; and receipts of nonfluid milk products are used only to fortify fluid milk products; and

(b) The maintenance, care and management of the dairy animals and other resources necessary to produce the milk and the processing, packaging and distribution of the milk are the personal enterprise and the personal risk of such person.

§ 1062.10 Distributing plant.

"Distributing plant" means a plant which is approved by a duly constituted health authority for the processing or packaging of Grade A milk and from which during the month route disposition is made in the marketing area.

§ 1062.11 Supply plant.

"Supply plant" means a plant which qualifies as a pool plant pursuant to § 1062.12(c) or from which fluid milk products, acceptable to a duly constituted health authority for distribution under a Grade A label, are shipped during the month to and physically received at a distributing plant.

§ 1062.12 Pool plant.

"Pool plant" means:

(a) Any distributing plant, other than that of a producer-handler or one described in § 1062.61, which:

(1) Has disposition during the month of fluid milk products on routes and in packaged form to pool distributing plants, which, after subtraction of the quantity of packaged fluid milk products received from other pool plants, is equal to at least 50 percent of such plant's total receipts of Grade A fluid milk products from dairy farmers (including milk diverted by the plant operator), supply plants, cooperative associations as handlers pursuant to § 1062.8(d), exclusive of packaged fluid milk products received from other pool plants, and has route disposition in the marketing area in an amount equal to 10 percent or more of such receipts or an average of not less than 7,000 pounds per day, whichever is less; or

(2) Qualified as a pool plant in the immediately preceding month on the basis of the performance standards described in subparagraph (1) of this paragraph;

(b) Any supply plant from which during the month 50 percent or more of the Grade A milk received from dairy farmers and cooperative associations in their capacity as a handler pursuant to § 1062.8(d) is shipped to a plant(s) described in paragraph (a) of this section. Any supply plant which has shipped to a plant(s) described in paragraph (a) of this section the required percentages of its receipts (or held pool supply plant status under the St. Louis or Ozarks orders) during each of the months of September through February shall be designated a pool plant in each of the following months of March through August unless the plant operator requests the market administrator in writing that such plant not be a pool plant. Such nonpool plant status shall be effective the first month following such notice and thereafter until the plant again qualifies as a pool plant on the basis of shipments;

(c) Any plant which is operated by or under contract to a cooperative association, or a federation of cooperatives, if:

(1) The operator of such plant(s) requests, and 50 percent or more of all the Grade A milk from farms of the member producers of such cooperative or federation including milk delivered by the cooperative as a handler pursuant to § 1062.8(d) has been shipped to and physically received at pool distributing plants during the current month or the previous 12-month period ending with the current month, either directly from producer member farms or by transfer from such association plant(s) (For this purpose the shipments of producer members in preceding months shall be considered to include shipments of producer members under the Ozarks and St. Louis orders if such producers were members of the same cooperative or of a cooperative merged with the cooperative currently operating the plant.); and

(2) Such a plant does not qualify during the month as a "pool plant" under another market pool order issued pursuant to the Act by making shipments of milk to plants which qualify as "pool plants" under such other order; and

(3) Such plant meets the requirements of subparagraph (2) of this paragraph and met the requirements of subparagraph (1) of this paragraph in the preceding month; and

(d) Any plant which qualified as a pool plant under the Ozarks order or St. Louis order during the month preceding the effective date of this order shall continue as a pool plant under this part for the first month this order is effective unless the operator requests that it be a nonpool plant and it fails to qualify pursuant to paragraph (a), (b), and (c) of this section.

§ 1062.13 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act;

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act;

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant which has route disposition of fluid milk products labeled Grade A in consumer-type packages or dispenser units in the marketing area during the month; and

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is neither an other order plant nor a producer-handler plant.

§ 1062.14 Producer milk.

"Producer milk" means milk produced by producers which is received and accounted for as follows:

(a) By the operator of a pool plant (including a cooperative association) with respect to milk:

(1) Received at the pool plant from producers or from a cooperative association as a handler pursuant to § 1062.8(d), but excluding milk received as a diversion from another order plant which is allocated to Class II pursuant to § 1062.46(a)(4)(iii);

(2) Diverted by the operator of the pool plant to another pool plant or to a nonpool plant subject to the conditions of paragraph (c) of this section;

(b) By a cooperative association with respect to milk:

(1) Which it receives from producers as a handler diverting the milk pursuant to § 1062.8(c), subject to the conditions of paragraph (c) of this section; and

(2) Which it receives from producers as a handler pursuant to § 1062.8(d) and which:

(i) Is delivered to a pool plant of another handler; or

(ii) Is not so delivered and constitutes shrinkage pursuant to § 1062.41(b)(10) or Class I shrinkage.

(c) Milk may be diverted by the operator of a pool plant or by a cooperative association pursuant to the following conditions with respect to each producer:

(1) By the operator of a pool plant to another pool plant(s) for not more days of production of producer milk than is physically received at the pool plant from which diverted;

(2) By the operator of a pool plant or by a cooperative association in its capacity as a handler pursuant to § 1062.8(c) to a nonpool plant(s) at which the handling of milk is not fully subject to the pricing and pooling provisions of another order issued pursuant to the Act on any day during each of the months of March through August and for not more days of production of producer milk than is physically received at pool plants (less the number of days production diverted pursuant to subparagraph (3) of this paragraph) during each of the months of September through February.

(3) By the operator of a pool plant or by a cooperative association in its capacity as a handler pursuant to § 1062.8(c) as Class II milk to a nonpool plant(s) at which the handling of milk is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act for not more days of production of producer milk than is physically received at pool plants less the number of days production diverted pursuant to subparagraph (2) of this paragraph, if such milk is not fully subject to the pricing and pooling provisions of such other order;

(4) For pricing purposes, milk diverted pursuant to subparagraphs (2) and (3) of this paragraph to a plant located more than 120 miles from the city hall in St. Louis or the city hall in Springfield, Mo., whichever is nearer (by the shortest highway distance as determined by the market administrator using the most current issue of the Household Carriers Guide) or milk diverted pursuant to subparagraph (1) of this paragraph, shall be deemed to be received by the diverting handler at the location of the plant to which diverted.

(5) For pricing purposes, milk diverted pursuant to subparagraph (2) or (3) of this paragraph to a plant located 120 miles or less from St. Louis or the city hall in Springfield, Mo., whichever is nearer (by the shortest highway distance as determined by the market administrator using the most current issue of the Household Carriers Guide), shall be deemed to be received at the location of the plant from which diverted.

§ 1062.15 Other source milk.

"Other source milk" means all the skim milk and butterfat contained in:

(a) Receipts of fluid milk products during the month except:

(1) Fluid milk products received from pool plants;

(2) Producer milk;

(3) Inventory of fluid milk products on hand at the beginning of the month; and

(b) Products, other than fluid milk products from any source (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month and any disappearance of nonfluid milk products not otherwise accounted for.

§ 1062.16 Fluid milk products.

"Fluid milk product" means milk, skim milk, concentrated milk, buttermilk, flavored milk, milk drinks (plain or flavored), fortified milk or skim milk (including "dietary milk products"), reconstituted milk or skim milk, sour cream and sour cream mixtures labeled Grade A, cream or any mixture in fluid form of milk or skim milk and cream (except frozen or aerated cream, ice cream or frozen dessert mixes, eggnog, sour cream or sour cream mixtures not labeled Grade A, dips not labeled Grade A, and sterilized milk and milk products hermetically sealed in metal or glass containers and so processed either before or after sealing so as to prevent microbial spoilage).

§ 1062.17 Route disposition.

"Route disposition" or "disposed of on routes" means any delivery of a fluid milk product from a distributing plant to a retail or wholesale outlet (including any delivery through a vendor, or a sale in packaged form from a plant or plant store) except a delivery to another plant or to commercial food establishments pursuant to § 1062.41(b)(4).

§ 1062.18 Chicago butter price.

"Chicago butter price" means the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) per pound of Grade A (92-score) bulk creamery butter at Chicago as reported during the month by the Department.

MARKET ADMINISTRATOR

§ 1062.20 Designation.

The agency for the administration of this part shall be a market administrator, appointed by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal by, the Secretary.

§ 1062.21 Powers.

The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary complaints of violations;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend to the Secretary amendments thereto.

§ 1062.22 Duties.

The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including but not limited to the following:

(a) Within 45 days following the date upon which he enters upon his duties execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in the amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of funds provided by § 1062.88 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses (except those incurred under § 1062.87) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part and surrender the same to his successor or to such other person as the Secretary may designate;

(f) Submit his books and records to examination by the Secretary and furnish such information and reports as the Secretary may request;

(g) Verify all reports and payments by each handler by inspection of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk or butterfat for such handler depends;

(h) Publicly announce at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate the name of any person who within 10 days after the date upon which he is required to perform such acts, has not:

(1) Made reports, pursuant to §§ 1062.30 through 1062.32; or

(2) Made payments pursuant to §§ 1062.80 through 1062.88;

(i) Publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate and mail to each handler at his last known address the prices determined for each month as follows:

(1) On or before the fifth day of each month the minimum price for Class I milk computed pursuant to § 1062.51(a) and the Class I butterfat differential pursuant to § 1062.52(a), both for the current month; and the minimum price for Class II milk computed pursuant to § 1062.51(b) and the Class II butterfat differential pursuant to § 1062.52(b), both for the previous month; and

(2) On or before the 10th day of each month the uniform price computed pursuant to § 1062.71 and the butterfat differential computed pursuant to § 1062.81, both for the previous month;

(j) Prepare and make available for the benefit of producers, consumers, and handlers such general statistics and such information concerning the operations hereof as are appropriate to the purpose and functioning of this part and which do not reveal confidential information;

(k) On or before the 10th day of each month report to each cooperative association, which so requests, the percentage utilization of milk received from producers or from a cooperative association in its capacity as a handler pursuant to § 1062.8(d) in each class by each handler who in the previous month received milk from members of such cooperative association;

(l) Whenever required for purpose of allocation of receipts from other order plants pursuant to § 1062.46(a)(9) and the corresponding step of § 1062.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are assigned and thereafter any change in such classification required to correct errors disclosed in verification of such report. In the case of milk received from an other order market pool plant the classification of such milk shall be the quantities assigned to Class I milk and Class II milk pursuant to § 1062.46. In the case of milk received from an other order handler pool plant, the market administrator shall report the allocation of skim milk and butterfat in the same percentage as the market-wide estimate for all handlers pursuant to paragraph (l) of this section.

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

REPORTS, RECORDS, AND FACILITIES

§ 1062.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month reports for such month shall be made to the market administrator in the detail and on forms prescribed by the market administrator:

(a) Each handler described in § 1062.8(a) shall report with respect to each of his pool plants as follows:

(1) Receipts of skim milk and butterfat in:

(i) Producer milk received both from producers and from cooperative associations acting as handlers pursuant to § 1062.8(d);

(ii) Fluid milk products received from other pool plants; and

(iii) Other source milk, with the identity of each source;

(2) Opening inventories of fluid milk products;

(3) The utilization or disposition of all quantities required to be reported, including separate statements of quantities;

(i) Of fluid milk products on hand at the end of the month;

(ii) Of route disposition of fluid milk products in the marketing area; and

(4) Such other information with respect to receipts and utilization as the market administrator may request;

(b) Each handler described in § 1062.8(b) shall report as required in paragraph (a) of this section, except that receipts of Grade A milk from dairy farmers shall be reported in lieu of those of producer milk; and

(c) Each cooperative association shall report with respect to milk for which it is a handler pursuant to § 1062.8 (c) and (d), as follows:

(1) Receipts of skim milk and butterfat in producer milk;

(2) Utilization of milk for which it is the handler pursuant to § 1062.8(c);

(3) The quantities of skim milk and butterfat delivered to each pool plant of another handler pursuant to § 1062.8(d); and

(4) Such other information as the market administrator may require.

§ 1062.31 Payroll reports.

On or before the 20th day after the end of the month each handler described in § 1062.8(a), for each of his pool plants, and each cooperative association with respect to milk for which it is the handler pursuant to § 1062.8 (c) and (d) shall submit to the market administrator the producer payroll and each handler making payments pursuant to § 1062.62(a) his payroll for dairy farmers delivering Grade A milk, which shall show for each producer or dairy farmer:

(a) The name and address;

(b) The total pounds of milk received and the average butterfat content thereof;

(c) The total pounds of milk diverted and the location of the plant to which diverted; and

(d) The price, amount and date of payment with the nature and amount of any deductions.

§ 1062.32 Other reports.

(a) Each producer-handler and each handler exempt from regulation pursuant to § 1062.61 shall make reports to the market administrator at such time and in such manner as the market administrator may request; and

(b) Each handler who receives milk from producers, payment for which is to be made to a cooperative association pursuant to § 1062.80(c) shall report to such cooperative association with respect to each such producer, on forms approved by the market administrator, as follows:

(1) On or before the 25th of the month, the total pounds of milk received during the first 15 days of the month;

(2) On or before the seventh day after the end of the month:

(i) The total pounds of milk and the average butterfat test of milk received from such producer during the month;

(ii) The amount or rate and nature of any deductions; and

(iii) The amount of any payments due such producer pursuant to § 1062.86 (c) and (d).

§ 1062.33 Records and facilities.

Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business such accounts and records of his operations and such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:

(a) The receipts of producer milk and other source milk and the utilization of such receipts;

(b) The weights and tests for butterfat and other content of all milk, skim milk, cream, and milk products handled;

(c) Payments to producers and cooperative associations; and

(d) The pounds of skim milk and butterfat contained in or represented by all fluid milk products on hand at the beginning and end of each month.

§ 1062.34 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the month to which such books and records pertain: *Provided*, That if, within such 3-year period, the market administrator notifies the handler in writing that the retention of such books and records or of specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act, or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 1062.40 Skim milk and butterfat to be classified.

All skim milk and butterfat required to be reported pursuant to § 1062.30 shall be classified by the market administrator pursuant to the provisions of §§ 1062.41 through 1062.46. If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk used or disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all of the water originally associated with such solids.

§ 1062.41 Classes of utilization.

Subject to the conditions set forth in §§ 1062.43 through 1062.46 the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product (including those reconstituted) except:

(i) Any fluid milk product fortified with added solids shall be Class I milk in an amount equal only to the weight of an equal volume of a like unmodified product of the same butterfat content; and

(ii) Any fluid milk product classified pursuant to subparagraphs (2), (3), and (4) of paragraph (b) of this section; and

(2) Not specifically accounted for as Class II milk; and

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than a fluid milk product;

(2) In fluid milk products disposed of for livestock feed;

(3) In fluid milk products dumped after notification to and opportunity for verification as may be requested by the market administrator;

(4) Disposed of in fluid milk products in bulk form to any commercial food processing establishment for use in food products prepared for consumption off the premises;

(5) Used to produce frozen cream;

(6) In inventory of fluid milk products on hand at the end of the month;

(7) In that portion of "fortified" fluid milk products not classified as Class I milk pursuant to paragraph (a)(1)(i) of this section;

(8) In shrinkage of skim milk and butterfat, respectively, assigned at each pool plant pursuant to § 1062.42(b)(1), but not to exceed the following:

(i) Two percent of producer milk excluding milk received from a cooperative as a handler pursuant to § 1062.8(d); plus

(ii) One and a half percent of receipts of milk in bulk tank lots from other pool plants; plus

(iii) One and a half percent of milk received from a cooperative association which is a handler for such milk pursuant to § 1062.8(d); plus

(iv) One and a half percent of receipts of fluid milk products in bulk tank lots from an other order plant, exclusive of the quantity for which Class II milk utilization was requested by the operator of such plant and the handler; plus

(v) One and a half percent of receipts of fluid milk products in bulk tank lots from unregulated supply plants, exclusive of the quantity for which Class II milk utilization was requested by the handler; less

(vi) One and a half percent of milk disposed of in bulk tank lots to other milk plants, except, in the case of milk diverted by the pool plant operator to a nonpool plant, if the operator of the plant to which the milk is diverted purchases such milk on the basis of farm weights and butterfat tests from samples taken at the farm, the applicable percentages shall be 2 percent;

(9) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1062.42(b)(2); and

(10) In shrinkage of skim milk and butterfat, respectively, of milk for which a cooperative association is the handler pursuant to § 1062.8 (c) or (d), but not in excess of one-half percent of such receipts, exclusive of receipts for which farm weights and butterfat samples are used as the basis of receipt at the plant to which delivered.

§ 1062.42 Assignment of shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts at each pool plant as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each handler at each plant; and

(b) If the pool plant has receipts of other source milk, shrinkage shall be prorated between:

(1) Skim milk and butterfat, respectively, in the receipts included in § 1062.41(b)(8); and

(2) Skim milk and butterfat in other source milk in the form of fluid milk products exclusive of that specified in § 1062.41(b)(8).

§ 1062.43 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat can prove to the market administrator that such skim milk or butterfat should be classified otherwise;

(b) For the purposes of §§ 1062.41 through 1062.46, §§ 1062.50 through 1062.54, and §§ 1062.70 through 1062.72, milk delivered by a cooperative association in its capacity as a handler pursuant to § 1062.8(d) shall be classified and allocated as producer milk according to the use or disposition by the receiving handler and the value thereof at class prices shall be included in the receiving handler's net pool obligation pursuant to § 1062.70. For purposes of location adjustment pursuant to § 1062.53 and administrative expense pursuant to § 1062.88, such milk shall be treated as producer milk of the receiving handler; and

(c) Any skim milk or butterfat shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

§ 1062.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants in their reports pursuant to § 1062.30, otherwise as Class I milk, if transferred or diverted from a pool plant to another pool plant, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1062.46(a)(8) and the corresponding step of § 1062.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1062.46(a)(3) and the corresponding step of § 1062.46(b), the skim milk and butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the handler transferring to the pool plant of another handler received during the month other source milk to be allocated pursuant to § 1062.46(a)(7) and (8) and the corresponding steps of § 1062.46(b), the skim milk and butterfat so transferred or diverted up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler under this or any other order or transferred or diverted to a plant exempt pursuant to § 1062.60(b);

(c) As Class I milk, if transferred or diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 350 miles, by the shortest highway distance as determined by the market administrator, from the City Hall, St. Louis, Mo., except that cream so transferred may be classified as Class II milk if prior written notice is given to the market administrator and each container is labeled by the transferor as "non-Grade A" cream for manufacturing only;

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located not more than 350 miles, by the shortest highway distance as determined by the market administrator, from the City Hall, St. Louis, Mo., unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1062.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred or diverted shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I milk utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I milk utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I milk utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I milk utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I milk utilization is not so assigned to it, the skim milk and butterfat so transferred or diverted shall be classified as Class II milk; and

(v) If any skim milk or butterfat is transferred to a second plant under this paragraph the same conditions of audit, classification, and allocation shall apply; and

(e) As follows, if transferred or diverted to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred or diverted in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II milk to the extent of the Class II milk utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I milk subject to adjustment when such information is available;

(5) For purposes of this paragraph (e), if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid products shall be classified as Class I milk, and milk allocated to another class shall be classified as Class II milk; and

(6) If the form in which any fluid milk products is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1062.41.

§ 1062.45 Computation of skim milk and butterfat in each class.

(a) For each month the market administrator shall correct for mathematical and other obvious errors the reports of receipts and utilization submitted pursuant to § 1062.30 for each pool plant of each handler;

(b) Compute the pounds of skim milk and butterfat in each class:

(1) At each pool plant of each handler;

(2) In milk diverted from another handler's plant to a nonpool plant by a cooperative association pursuant to § 1062.8(c); and

(3) In milk accounted for by a cooperative association as shrinkage of milk handled by the association pursuant to § 1062.8(d); and

(c) In the case of the operator of more than one plant, allocation of producer milk to Class I and Class II milk pursuant to §1062.46 (a) and (b) shall be on an individual plant basis unless pursuant to such allocation fluid milk products are assigned pursuant to § 1062.46(a) (7) or (8), and the corresponding steps of § 1062.46(b), in which case allocation pursuant to § 1062.46 shall be based upon the combined receipts and utilization (less transfers between pool plants of the same handler) at all plants of the handler (i.e., on a system basis); and

(d) Compute for each cooperative association reporting pursuant to § 1062.30 (c) the total pounds of skim milk and butterfat, respectively, in producer milk pursuant to § 1062.14(b) (1) and (2)(ii) in each class. The amount so determined shall be those used for computation pursuant to § 1062.46(c).

§ 1062.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1062.45, the market administrator shall determine the classification of producer milk for each handler (or pool plant, if applicable) as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II milk the pounds of skim milk classified as Class II milk pursuant to § 1062.41(b)(8);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II milk, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order or from a plant exempt pursuant to § 1062.60(b);

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II milk but not in excess of such quantity:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant;

(*a*) For which the handler requests Class II milk utilization; or

(*b*) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and substracting the sum of the pounds of skim milk in producer milk, receipts from other pool plants and receipts in bulk from other order plants; and

(ii) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class II milk utilization was requested by the operator of such plant and the handler;

(iii) The pounds of skim milk in receipts of milk by diversion from an other order plant for which Class II utilization was requested by the receiving handler and by the diverting handler under the other order, but not in excess of the pounds of skim milk remaining in Class II milk;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II milk, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to subparagraph (4)(i) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraph (4)(ii) of this paragraph:

(i) In series beginning with Class II milk, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II milk utilization of skim milk announced for the month by the market administrator pursuant to § 1062.22(l) or the percentage that Class II milk utilization remaining is of the total remaining utilization of skim milk of the handler;

(ii) From Class I milk, the remaining pounds of such receipts; and

(iii) The quantity of skim milk, if any, subtracted pursuant to subdivision (ii) of this subparagraph shall be assigned pro rata to the receipts from other order plants under market pool orders and under handler pool orders which were assigned pursuant to subdivisions (i) and (ii) of this subparagraph;

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products transferred or diverted from pool plants of other handlers (or other pool plants, if applicable) according to the classification assigned pursuant to § 1062.44(a); and

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II milk. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section and § 1062.45(d) for each class and determine the weighted average butterfat content of producer milk in each class.

MINIMUM PRICES

§ 1062.50 Basic formula price.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent. For the purpose of computing Class I prices through April 1969, the basic formula price shall not be less than $4.33.

§ 1062.51 Class prices.

Subject to the provisions of §§ 1062.52 and 1062.53, the class prices per hundredweight for the month shall be as follows:

(a) *Class I price.* The Class I price at plants located in Zone I shall be the basic formula price for the preceding month plus $1.40, and plus 20 cents through April 1969.

(b) *Class II milk price.* The Class II price shall be the basic formula price for the month.

§ 1062.52 Handler butterfat differentials.

If the average butterfat test of Class I or Class II milk as calculated pursuant to § 1062.46 is more or less than 3.5 percent, there shall be added to, or subtracted from, as the case may be, the price for such class of utilization for each one-tenth of 1 percent that such average butterfat test is above or below 3.5 percent, a butterfat differential computed by multiplying the Chicago butter price by the applicable factor listed below, and rounding to the nearest one-tenth cent;

(a) *Class I milk.* Multiply such price for the preceding month by 0.12; and

(b) *Class II milk.* Multiply such price for the current month by 0.115.

§ 1062.53 Location differentials to handlers.

For milk received from producers or from a cooperative association pursuant to § 1062.8(d) at a pool plant and which is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraphs (e) and (f) of this section or for other source milk to which a location adjustment is applicable, the price at such pool plant located:

(a) In Zone I of the marketing area, shall be the price computed pursuant to § 1062.51(a) except as provided in paragraph (c) of this section.

(b) In Zone II of the marketing area, shall be the zone I price plus a location adjustment of 15 cents;

(c) In Zone A (the Missouri counties of Barry, Christian, Douglas, Green, Howell, Laclede, Lawrence, Ozark, Stone, Taney, Webster, Wright, and Texas), for any plant which does not dispose of fluid milk products in consumer type packages and which is qualified as a pool plant pursuant to § 1062.12 (b) or (c) or a supply plant which qualifies pursuant to § 1062.12(d) shall be the price pursuant to § 1062.51(a) less 27 cents.

(d) Outside the marketing area and Texas County, Mo., and more than 30 miles from the City Hall, St. Louis, Mo., or the city hall in Springfield, Mo., whichever is nearer shall be the Class I price applicable in Zone I, less a location adjustment of 1.5 cents for each 10 miles or fraction thereof that such plant is located from the City Hall, St. Louis, Mo., or the city hall in Springfield, Mo., whichever is nearer (the distance to be by shortest hard-surfaced highway as determined by the market administrator);

(e) In the case of transfers between plants, location adjustment shall apply at the transferor plant with respect to a quantity of the transfer calculated as follows: From total Class I milk utilization at the transferee plant subtract Class I milk assigned to receipts from other order plants and unregulated supply plants, and 95 percent of the receipts from producers and from cooperative associations as handlers pursuant to § 1062.8(d); and assign the remaining Class I milk to receipts from other pool plants beginning with receipts from plants with plus location adjustment, then to receipts from plants with no location adjustment, and then in sequence to receipts from plants at which the smallest minus adjustments apply.

(f) For purposes of calculations pursuant to this section, the following assignments of Class I utilization to pool plants will apply when allocation pursuant to § 1062.46 is performed on a system basis:

(1) Allocations to Class I pursuant to each of the following subparagraphs of § 1062.46 (a) and (b), will be assigned to the plant(s) at which any milk of the respective category was received or was in inventory, pro rata in each case to the respective quantities of such milk at each of such plants: § 1062.46 (a) and (b) (2), (3), (5), (7), and (8); and

(2) If Class I utilization pursuant to § 1062.45(b)(1) remaining at a pool plant after subtraction of the quantities assigned pursuant to subparagraph (1) of this paragraph is greater than receipts from producers and cooperative associations as handlers pursuant to § 1062.8(d) and other pool plants, Class I utilization equal to the amount of the excess will be assigned to the pool plant(s) of the handler at which an equivalent amount of producer milk (including milk from a cooperative association pursuant to § 1062.8(d)) is not otherwise assigned to Class I, and at which the rate of location adjustment most nearly corresponds to that of the plant with such excess Class I utilization. The amount so assigned to another pool plant shall be added to Class I utilization pursuant to § 1062.45(b)(1) in computing the assignment of location adjustments to receipts at such plant pursuant to paragraph (e) of this section.

§ 1062.54 Use of equivalent prices.

If for any reason a price quotation required by this order for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

APPLICATION OF PROVISIONS

§ 1062.60 Exemptions.

(a) *Producer-handler.* Sections 1062.40 through 1062.46, §§ 1062.50 through 1062.54, §§ 1062.61, 1062.62, 1062.70 through 1062.72, and §§ 1062.80 through 1062.89 shall not apply to a producer-handler; and

(b) *Governmental agency.* None of the provisions of this part except §§ 1062.13, 1062.44(b), and 1062.46(a)(3)(iii) shall apply to a plant operated by a governmental agency.

§ 1062.61 Plants subject to other Federal orders.

The provisions of this part shall not apply with respect to the operation of any plant specified in paragraph (a), (b), or (c) of this section except that the operator shall, with respect to total receipts of skim milk and butterfat at such plant, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

(a) A distributing plant which meets the pooling requirements of another Federal order and from which route disposition during the month in such other Federal order marketing area is greater than was so disposed of in this marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all of the provisions of this part until the third consecutive month in which a greater proportion of its Class I disposition is made in such other marketing area unless, notwithstanding the provisions of this paragraph, it is regulated under such other order;

(b) A distributing plant which meets the pooling requirements of another Federal order and from which route disposition during the month in this marketing area is greater than was so disposed of in such other Federal order marketing area but which plant is, nevertheless, fully regulated under such other Federal order; and

(c) A supply plant meeting the requirements of § 1062.12(b) which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made during the month to plants regulated under such other order than are made to plants regulated under this part, except during the months of March through August if such plant retains automatic pooling status under this part.

§ 1062.62 Obligations of handlers operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1062.30 and 1062.31 the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) (i) The obligation that would have been computed pursuant to § 1062.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or any other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the uniform price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1062.70(e) and a credit in the amount specified in § 1062.84(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified in subdivision (ii) of this subparagraph; and

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1062.30 and 1062.31 similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1062.12(b) with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant;

(2) From this obligation there will be deducted the sum of:

(i) The gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph; and

(ii) Any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant; and

(b) An amount computed as follows:

(1) Determine the respective amounts of route disposition (other than to pool plants) of skim milk and butterfat disposed of in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I milk price applicable at the location of the nonpool plant, subtract its value at the uniform price applicable at such location (not to be less than the Class II milk price).

DETERMINATION OF UNIFORM PRICE TO PRODUCERS

§ 1062.70 Computation of the net pool obligation of each pool handler.

The net pool obligation at each pool plant (or of each pool handler if allocation is on a system basis) and of each cooperative association as a handler pursuant to § 1062.8 (c) and (d) during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1062.46(c), by the applicable class prices (adjusted pursuant to §§ 1062.52 and 1062.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1062.46(a)(10) and the corresponding step of § 1062.46(b) by the applicable class prices;

(c) Add the amount obtained by multiplying the difference between the Class II milk price for the preceding month and the Class I milk price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 1062.46(a)(5) and the corresponding step of § 1062.46 (b);

(d) Add an amount equal to the difference between the value at the Class I milk price applicable at the pool plant and the value at the Class II milk price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1062.46(a)(3) and the corresponding step of § 1062.46(b);

(e) Add an amount equal to the value at the Class I price adjusted for location of the nearest nonpool plant(s) from which an equivalent weight was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1062.46(a)(7) and the corresponding step of § 1062.46(b); and

(f) Add the value of the skim milk and butterfat, respectively, in receipts of fluid milk products from a handler pool other order plant subtracted from each class pursuant to § 1062.46(a)(8) (iii), and the corresponding step of § 1062.46(b), at the applicable class prices pursuant to this part adjusted for location of the plant from which received.

§ 1062.71 Computation of uniform prices.

For each month the market administrator shall compute the uniform price per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1062.70 for all handlers who filed the reports prescribed by § 1062.30 for the month and who made the payments pursuant to §§ 1062.80 and 1062.84 for the preceding month;

(b) Deduct the amount of the plus differentials and add the amount of the minus differentials, which are applicable pursuant to § 1062.82;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1062.81 and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1062.70 (e) and (f);

(f) Subtract not less than four cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price", and, except for the months specified below, shall be the "uniform price" for milk received from producers;

(g) For the months specified in paragraphs (h) and (i) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (d) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (e)(2) of this section by the weighted average price;

(h) From the remainder subtract during each of the months of March and July an amount equal to 15 cents per hundredweight and during each of the months of April, May, and June an amount equal to 25 cents per hundredweight of the total amount of producer milk included in these computations. This amount shall be retained in the producer-settlement fund and disbursed according to the provisions of paragraph (i) of this section;

(i) Add during each of the months of September and December 20 percent and during each of the months of October and November 30 percent of the total amount subtracted pursuant to paragraph (h) of this section;

(j) Divide the resulting sum by the total hundredweight of producer milk included in these computations; and

(k) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1062.72 Notification of handlers.

On or before the 10th day of each month the market administrator shall notify each handler of:

(a) The quantity and value of his milk in each class computed pursuant to §§ 1062.46 and 1062.70 and the totals of such quantities and values;

(b) The uniform price computed pursuant to § 1062.71;

(c) The amount, if any, due such handler from the producer-settlement fund;

(d) The total amounts to be paid by such handler pursuant to §§ 1062.80 and 1062.84; and

(e) The amount to be paid by such handler pursuant to §§ 1062.87 and 1062.88.

§ 1062.73 Overdue accounts.

Any unpaid obligation of a handler pursuant to § 1062.84, § 1062.86(a), or § 1062.88 shall be increased one-half of one percent on the first day of the month following after the date such obligation is due and on the first day of each succeeding month until such obligation is paid. Any remittance received by the market administrator postmarked prior to the first of the month shall be considered to have been received when postmarked.

PAYMENTS

§ 1062.80 Time and method of payment.

Each handler shall make payment as follows:

(a) On or before the 17th day after the end of the month during which the milk was received, to each producer for whom payment is not made pursuant to paragraph (c) of this section, at not less than the applicable uniform price computed pursuant to § 1062.71 for such producer's deliveries of milk, adjusted by the butterfat and location differentials computed pursuant to §§ 1062.81 and 1062.82, and less the amount of the payment made pursuant to paragraph (b) of this section. If by such date such handler has not received full payment pursuant to § 1062.85, he may reduce his total payments uniformly to all producers by not more than the amount of the reduction in payment by the market administrator. He shall, however, complete such payments pursuant to this paragraph not later than the date for making such payments next following receipt of the balance from the market administrator;

(b) On or before the last day of each month, to each producer:

(1) To whom payment is not made pursuant to paragraph (c) of this section; and

(2) Who is still delivering Grade A milk to such handler, a partial payment with respect to milk received from him during the first 15 days of such month computed at not less than the Class II price for 3.5 percent milk for the preceding month, without deduction for hauling;

(c) On or before the 14th day after the end of each month and on or before the 25th day of each month, in lieu of payments pursuant to paragraphs (a) and (b), respectively, of this section, to a cooperative association which so requests, for milk which is received from members, and for which such association is determined by the market administrator to be authorized to collect payment, an amount equal to the sum of the individual payments otherwise payable to such producers; and

(d) Each handler who receives milk for which a cooperative association is the handler pursuant to § 1062.8(d), shall, on or before the second day prior to the date payments are due individual producers, pay such cooperative association for such milk as follows:

(1) A partial payment for milk received during the first 15 days of the month at not less than the amount prescribed in paragraph (b)(2) of this section; and

(2) In making final settlement, the value of such milk at the applicable uniform price, less payment made pursuant to subparagraph (1) of this paragraph.

(e) On or before the 14th day after the end of each month, each handler shall pay to each cooperative association for milk the handler receives from a pool plant(s) operated by such association, not less than the minimum prices for milk in each class, subject to the applicable location and butterfat differentials.

§ 1062.81 Butterfat differentials to producers.

In making payments pursuant to § 1062.80(a), the uniform prices per hundredweight shall be adjusted by adding or subtracting for each one-tenth of 1 percent that the average butterfat content is above or below 3.5 percent a butterfat differential equal to the average of the butterfat differentials determined pursuant to § 1062.52 weighted by the pounds of butterfat in producer milk in each class, the result being rounded to the nearest one-tenth of a cent.

§ 1062.82 Location differentials to producers and on nonpool milk.

(a) For producer milk received at pool plants located outside Zone I and more than 30 miles from St. Louis city hall or the city hall in Springfield, Mo., whichever is nearer, there shall be added or deducted, as the case may be, an adjustment for each such plant for all milk at the rates specified in § 1062.53 (b) and (d); and

(b) For purposes of computations pursuant to §§ 1062.84(b)(2) and 1062.85, the "weighted average price" shall be adjusted at the rates set forth in § 1062.53 (b) and (d), applicable at the location of the nonpool plant(s) from which the milk was received.

§ 1062.83 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1062.62, 1062.84, and 1062.86, and out of which he shall make all payments to handlers pursuant to §§ 1062.85 and 1062.86. The market administrator shall offset the payment due to a handler against payments due from such handler.

§ 1062.84 Payments to the producer-settlement fund.

On or before the 12th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts (for each pool plant, if applicable) specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The net pool obligation computed pursuant to § 1062.70 for such handler;

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1062.80 excluding in the case of a cooperative association as a handler pursuant to § 1062.8(d) milk it delivered to a pool plant; and

(2) The value at the "weighted average" price(s) applicable at the location of the plant(s) from which received (not to be less than the value at the Class II milk price) with respect to other source milk for which a value is computed pursuant to § 1062.70 (e) and (f) except that in the case of milk received from a handler pool market the value applicable pursuant to this subparagraph shall not exceed the value for such quantity calculated pursuant to § 1062.70(f).

§ 1062.85 Payments out of the producer-settlement fund.

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any (for each pool plant, if applicable), by which the amount computed pursuant to § 1062.84(b) exceeds the amount computed pursuant to § 1062.84(a). The market administrator shall offset any payment due any handler against payments due from such handler pursuant to §§ 1062.84, 1062.86, 1062.87, and 1062.88. If the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

§ 1062.86 Adjustment of errors in payments.

(a) Whenever verification by the market administrator of reports or payments of any handler discloses error in payments to the producer-settlement fund made pursuant to § 1062.84, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall within 30 days of the date of such billing, make payment to the market administrator of the amount so billed;

(b) Whenever verification discloses that payment is due from the market administrator to any handler pursuant to § 1062.85, the market administrator shall promptly make payment to such handler;

(c) Whenever verification by the market administrator of the payment by a handler to any producer discloses payment to such producer of an amount which is less than is required by this part, the handler shall make up such payment to the producer not later than the time of making payment to producers next following the disclosure; and

(d) Whenever verification by the market administrator of the payment by a handler to any producer discloses that solely through error in computation, payment to such producer was in an amount more than was required to be paid pursuant to § 1062.80, no handler shall be deemed to be in violation of § 1062.80 if he reduces his next payment to such producer following discovery of such error by not more than such overpayment.

§ 1062.87 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler shall deduct 6 cents per hundredweight, or such lesser amount as the Secretary may prescribe, from the payments made to each producer other than himself pursuant to § 1062.80(a) with respect to all milk of such producer received by such handler during the month and shall pay such deductions to the market administrator on or before the 15th day after the end of such month. Such money shall be used by the market administrator to verify weights, samples and tests of milk received from, and to provide market information to such producers. The market administrator may contract with a cooperative association or cooperative associations for the furnishing of the whole or any part of such services; and

(b) In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make such deductions from the payments to be made directly to producers pursuant to § 1062.80(a) as are authorized by such producers, and on or before the 15th day after the end of each month, pay over such deductions to the association of which such producers are members. When requested by the cooperative association a statement shall be supplied the cooperative association showing for each producer for whom such deduction is made the amount of such deduction, the total delivery of milk, and, unless otherwise previously provided, the butterfat test.

§ 1062.88 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 2.5 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including that received from a cooperative association as a handler, pursuant to § 1062.8(d)) and the handler's own production; and

(b) Other source milk allocated to Class I pursuant to § 1062.46(a) (3) and (7) and the corresponding steps of § 1062.46(b); and

(c) Class I milk disposed of from partially regulated distributing plants with route disposition in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

§ 1062.89 Termination of obligation.

The provisions of this section shall apply to any obligation under this part for the payment of money:

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such 2-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall contain but need not be limited to the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producer, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid;

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representative all books and records required by this part to be made available, the market administrator may, within the 2-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said 2-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives;

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed; and

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate 2 years after the end of the month during which the milk involved in the claim was received if an underpayment is claimed, or 2 years after the end of the month during which the payment (including deduction or offset by the market administrator) was made by the handler, if a refund on such payment is claimed unless such handler, within the applicable period of time, files, pursuant to section 8c(15)(A) of the Act, a petition claiming such money.

MISCELLANEOUS PROVISIONS

§ 1062.90 Effective time.

The provisions of this part or any amendment to this part, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated, pursuant to § 1062.91.

§ 1062.91 Suspension or termination.

Any or all of the provisions of this part, or any amendment to this part, may be suspended or terminated as to any or all handlers after such reasonable notice as the Secretary shall give and shall, in any event, terminate whenever the provisions of the Act cease to be in effect.

§ 1062.92 Continuing power and duty of the market administrator.

(a) If, upon the suspension or termination of any or all provisions of this part there are any obligations arising under this part, the final accrual or ascertainment of which requires further acts by any handler, by the market administrator or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided*, That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate;

(b) The market administrator or such other persons as the Secretary may designate, shall:

(1) Continue in such capacity until removed;

(2) From time to time account for all receipts and disbursement and when so directed by the Secretary deliver all funds on hand, together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct; and

(3) If so directed by the Secretary, execute assignment or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

§ 1062.93 Liquidation after suspension or termination.

Upon the suspension or termination of any or all provisions of the part the market administrator, or such person as the Secretary may designate, shall if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this part, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 1062.94 Agents.

The Secretary may by designation, in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

§ 1062.95 Separability of provisions.

If any provisions of this part, or its application to any person or circumstances is held invalid, the application of such provision and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

Signed at Washington, D.C., on August 27, 1968.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 68-10518; Filed, Aug. 29, 1968; 8:50 a.m.]

[7 CFR Part 1138]

[Docket No. AO-335-A13]

MILK IN RIO GRANDE VALLEY MARKETING AREA

Decision on Proposed Amendments to Tentative Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Albuquerque, N. Mex., on June 3-4, 1968, pursuant to notice thereof issued on May 22, 1968 (33 F.R. 7761).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Acting Deputy Administrator, Regulatory Programs, on August 6, 1968 (33 F.R. 11409; F.R. Doc. 68-9556) filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings, and conclusions, rulings, and general findings of the recommended decision (33 F.R. 11409; F.R. Doc. 68-9556) are hereby approved, adopted and are set forth in full herein:

The material issues on the record of the hearing relate to:

(1) Continuation of credits for specified Class II uses beyond August 1968;

(2) Point of pricing diverted milk;

(3) Pooling provisions for cooperative association "standby plants";

(4) Deletion or modification of the supply-demand adjustor to the Class I price;

(5) Changing marketwide pooling provisions to individual-handler pooling;

(6) Changing the assignment with respect to receipts of packaged milk at a pool plant from a producer-handler; and

(7) Deletion of the present exemption from pricing and pooling for larger producer-handlers.

Consideration of issues 6 and 7 is reserved for later decision. The period for filing briefs and proposed findings and conclusions with respect to issue No. 7 extends through July 20, 1968. Issue No. 6 can best be considered at the same time.

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Extension of special Class II credits*. Temporary order provisions which reduce cost to handlers with respect to certain uses of Class II milk, now scheduled to expire August 31, 1968, should be extended through August 1969, with modification of the rate applicable to movements to nonpool plants outside the marketing area (or use in condensed skim milk) to provide credit at approximately the 1967 level.

Since April 1966, special pricing provisions have resulted in no charge to handlers for Class II producer skim milk disposed of for livestock feed or dumped. For Class II producer skim milk used to produce condensed skim milk, and for milk or skim milk transferred from pool plants or diverted from farms in the marketing area to nonpool plants outside the marketing area, a nominal charge of approximately 15 cents per hundredweight of skim milk results under these provisions. In effect these provisions provide separate classification and pricing for the uses specified. In view of their temporary nature, the purposes of classification are accomplished by means of credits.

As set forth in detail in the decisions (31 F.R. 4732; 32 F.R. 3298) in which such provisions were first included in the order for the April 1966–February 1967 period, and later extended through August 1968, these provisions are designed to (1) encourage handlers to receive and separate milk for which they have economic use only for the resulting cream, and (2) to share among all producers the substantial costs of moving to distant nonpool manufacturing plants milk produced in the marketing area in excess of that which handlers receive at their pool plants.

The basic elements of the problem for which these provisions were designed remain in the market. There are still no facilities in the marketing area in which the skim milk component of milk can be converted into manufactured dairy products, either of a storable nature or in a form suitable to provide nonfat solids for ice cream use. Milk must still be moved substantial distances (up to 800 miles) to nonpool manufacturing plants.

Increased volumes of milk are presently subject to these special pricing provisions. For the January–April 1968 period approximately 18.3 million pounds of milk were priced under them, contrasted with 10.2 million pounds in the corresponding months of 1967. The average effect on the uniform price of the order increased from about 9.5 cents per hundredweight to about 15 cents.

While total producer receipts for the January–April period increased 12.5 percent in 1968 over those of 1967, milk produced in the marketing area increased only 4.2 percent, or 3.9 million pounds, while milk produced outside the area increased 66 percent, or 9.7 million pounds. The percentage of producer receipts from farms in the marketing area dropped from 86.7 percent to 80 percent.

Total Class I sales for the January–April period declined 3.2 percent (3.1 million pounds) from 1967 to 1968, but the producer milk classified as Class I increased by 4.9 million pounds or 5.2 percent. Class I milk assigned to other source receipts was reduced substantially, from 14.0 million pounds to 6.5 million pounds.

During the period from January 1967 through April 1968, producer milk from outside the marketing area has been received from the States of Arizona, Kansas, Oklahoma, and Utah. As of January 1967, Kansas supplied 2.5 percent of all producer milk, Arizona 4.0 percent, and Oklahoma 0.2 percent. No producer milk supplies have been received from Kansas since April 1967, when the handler supplied with Kansas milk ceased operations. In April 1968, Arizona supplied 17.0 percent of total producer milk and Utah 0.85 percent. One Texas producer whose farm is outside the marketing area has supplied the market regularly for several years.

The majority of the milk moved to distant manufacturing plants has been handled by a cooperative association, Dairy Farmers Association. During the past year this association has merged with Milk Producers, Inc., a cooperative which now represents most of the producers in Federal order markets in Texas, Oklahoma, Arkansas, and southern Kansas. Milk Producers, Inc., proposed extension of the special pricing provisions through August 1969.

The other cooperative association representing producers with farms in the marketing area, New Mexico Milk Producers Association, opposed continuation of these provisions. Heretofore, it has supported their use in the order. Before they were incorporated in the order NMMPA shared with DFA some cost of movement of milk to distant plants. NMMPA has also moved some milk under the provisions since they became effective. No position was taken at the hearing by cooperative associations which represent Arizona and Utah producers.

In opposing continuation of special pricing provisions, NMMPA attributes the increased volumes of surplus milk to be handled to what it describes as MPI failuer to market milk to certain handlers at "the going price". Following the merger of DFA into MPI, the latter association attempted to negotiate with the dealers it supplied the same 50-cent premium above the Class I order price as it had earlier made effective in the other Federal order markets it supplies. With a majority of these handlers it was successful. However, two large dairies at El Paso negotiated for an Arizona supply of producer milk at a 35-cent premium.

Basically, however, NMMPA no longer wishes to share the substantial cost of handling reserve milk in the Rio Grande Valley market. It hopes to keep its relatively smaller supply of producer milk placed with local handlers, and to allow others to dispose of the reserve milk that handlers do not receive without NMMPA sharing the costs involved. While premium negotiations may be the occasion for increased surplus at this time, the record does not indicate that the problems which the provisions were designed to meet would have disappeared from the market had there been no dispute over premiums.

It is concluded that Class II credits which result in special pricing for the uses presently specified should be continued through August 1969. The method of computing the rates of credit for skim milk used for condensing and for milk or skim milk transferred or diverted to nonpool plants outside the marketing area should be revised to maintain the rate of credit at about the average rate prevailing in 1967. This can be accomplished by changing the 15-cent factor to 40 cents.

The rate of credit on all uses is computed from the value of skim milk in Class II milk. For Class II producer skim milk disposed of for livestock feed or dumped the entire value of such skim milk is credited. For that transferred or diverted as milk or skim milk to nonpool manufacturing plants the rate of credit is reduced 15 cents, resulting in a net charge of 15 cents per hundredweight.

Presently Class II prices exceed those of comparable months of 1967 by approximately 25 cents per hundredweight, but the Class II butterfat differential is the same as a year earlier. Official notice is hereby taken of announcements of minimum class prices released by the Market Administrator for May 1968 on June 5, 1968, and for June 1968 on July 5, 1968. The 25-cent increase is therefore reflected entirely in the value of skim milk. Official notice is hereby taken of the Dairy Price Support Announcement issued March 20, 1968, in which prices for nonfat dry milk to be purchased for price support were increased as of April 1, 1968, but butter prices were continued at the 1967 level. The market prices of nonfat dry milk and butter used to compute the Rio Grande Valley order Class II price and Class II butterfat differential are influenced to a substantial degree by the support price program. Hence, the present relationships may be expected to continue for some time.

The net effect under the present computation of increased Class II skim values is to increase the amount of credit. For skim milk dumped or disposed of for livestock feed, this is appropriate. There is no basis to conclude that the economic value of these uses has changed. With respect to skim milk disposed of to manufacturing plants the economic value to such plants has increased, since the market prices at which products made from it can be sold have increased.

It is concluded that, for the period for which credits are to be continued, the recent increase in Class II skim milk value should be reflected in the net charge made for milk moved to outside nonpool plants rather than in the credit allowed the responsible handler. The same conclusion applies to skim milk used to produce condensed skim milk at in-area plants, should any such use occur. If the credit is computed by reducing the Class II skim milk value by 40 cents, the 1967 average rate of credit will be maintained. The provision should specify 40 cents rather than 15 cents in § 1138.55(b).

2. *Point of pricing diverted milk.* No change should be made with respect to provisions which determine the point at which milk diverted to nonpool plants is priced.

The Rio Grande Valley order presently prices milk produced on farms in the marketing area at the location of the pool plant from which diverted when such milk is diverted to a nonpool plant. Milk produced on farms outside the marketing area is priced at the location of the nonpool plant to which it may be diverted from a pool plant.

The New Mexico Milk Producers Association proposed that all diverted milk be priced at the location of the nonpool plant to which diverted.

The present provisions became effective in May 1965. They recognize the fact that nonpool plants to which milk produced in the marketing area may be diverted for manufacturing use are located substantially greater distances from the farms on which such milk is produced than are the pool plants to which it is normally delivered. On the other hand, the farms of Rio Grande Valley producers located outside the marketing area are much closer to nonpool plants to which their milk may be diverted than to the pool plants (all of which are in the marketing area) to which their milk is regularly delivered. This results in substantial increases in transportation costs when milk produced in the marketing area is diverted, and substantial savings in costs when milk produced outside the area is diverted.

In support of their proposed amendment, the proponent offered no evidence of change in the relative transportation costs of diversion, as between in-area producers and other producers. It merely indicated that it considered this proposal an alternative to its proposed deletion of the provisions discussed under issue No. 1. The proponent cooperative association represents only producers whose farms are located in the marketing area. It apparently does not expect its members to incur any costs of surplus removal associated with diversion to distant nonpool plants.

The provisions with respect to point of pricing diverted milk are designed to provide equity between in-area producers and other producers in the returns they receive with respect to diverted milk. This record indicates no economic reason for change. The proposal to price all such milk at the nonpool plant to which diverted should be denied.

3. *Pooling cooperative association "standby plants".* The provision for pooling a "standby" plant operated by a cooperative association should be retained in the order. Such a plant, if located in the marketing area, may be pooled if 50 percent or more of the milk delivered during the month by producer members of the cooperative association is delivered to pool plants of other handlers, either directly from farms or through its plant.

The New Mexico Milk Producers Association proposed deletion of this provision. The provision was placed in the order effective March 1967 on the record of a public hearing held January 19, 1967, at which the provision was proposed jointly by NMMPA and DFA.

NMMPA now believes this provision to be in conflict with the provisions which limit diversions by cooperative associations to either 15 or 25 percent, depending upon the month, of its member-producer milk received at all pool plants during the month. MPI operates such a "standby" plant at El Paso, equipped with storage facilities in which milk may be held for needs of pool plants of other handlers or may be assembled for transfer to distant manufacturing plants. In view of the current loss of sales to certain El Paso handlers, more milk is now transferred from the plant for manufacturing than is delivered from it to pool plants of other handlers. The opportunity to use the plant for supplemental supply to pool plants is, however, essential to servicing pool plants the association may supply in the El Paso portion of the marketing area.

There is no limitation as such upon the quantity of milk that may be transferred to nonpool plants by the operators of distributing or supply plants that qualify as pool plants under the Rio Grande Valley order. There are practical limitations, however, in that to qualify as pool plants they must use specified portions of their receipts in other designated ways. A distributing plant must dispose of 50 percent or more of its receipts as Class I milk on routes, and a supply plant must ship 50 percent or more of its receipts to pool distributing plants. Likewise, the cooperative association must deliver 50 percent or more of its member-producer milk to pool plants of other handlers if its standby plant is to be pooled. The cooperative association, therefore, has the same limitation of 50 percent of its supply that applies to other operators of pool plants with respect to milk that must be used for purposes other than transfer to nonpool plants.

Similar provisions for pooling cooperative association plants are contained in many orders without specific correlation with the diversion provisions of such orders. Any milk diverted is, of course, included in the member milk supply of which half must be delivered to pool plants of other handlers.

The provision for pooling cooperative standby plants should not be deleted from the Rio Grande Valley order on the basis of this record.

4. The supply-demand adjustor to the Class I price should be deleted from the order.

The Rio Grande Valley order provides for a supply-demand adjustment of its Class I price equal to the simple average of the supply-demand adjustments effective for the same month in the Wichita, Oklahoma Metropolitan, north Texas, central Arizona, Great Basin, and eastern Colorado orders. The supply-demand adjustors of the Wichita, Oklahoma Metropolitan, and north Texas orders have been deleted from these orders as a result of amendments effective April 1, 1968. Prior to that time they had been inoperative for substantial periods due to suspension during the pendency of amendment proceedings. The central Arizona adjustor has been suspended effective June 1, 1968, pending a public hearing proceeding to consider Class I price provisions of the order.

The New Mexico Milk Producers Association proposed deletion of the Rio Grande Valley order provisions. A handler proposed that in computation of the simple average, those orders in which supply-demand provisions were suspended or deleted should be excluded from the computation.

The present supply-demand adjustor does not measure Rio Grande Valley milk supplies in relation to sales in the market. Rather, it attempted to effect changes in the Rio Grande price in relation to changes in prices in nearby orders resulting from changes in supplies and sales in the markets regulated by such orders. The orders used represent actual or potential alternative sources of supply for the Rio Grande Valley market or provide sales competition with milk priced under the Rio Grande Valley order. Four of the six orders used for this purpose no longer have supply-demand adjustors. The influences upon marketing conditions in the Rio Grande Valley area of the eastern Colorado and Great Basin prices, which still are affected by supply-demand adjustors, are not sufficient to allow these orders alone to determine changes in the Rio Grande Valley Class I price.

At the present time the supply-demand adjustor of the Rio Grande Valley order is ineffective in modifying producer returns and handler costs in relation to marketing conditions. As set forth elsewhere in this decision, prices paid by regulated handlers for Class I milk exceed order prices by from 35 to 50 cents per hundredweight. Supply-demand adjustments computed for the months of January through April 1968 have ranged from minus 1 cent to minus 3 cents. For 1967 the maximum adjustment computed was minus 9 cents. Premiums have thus negated any effect of the adjustors. While the effect of premium prices on milk supplies and fluid sales of the Rio Grande Valley market are not reflected in the present adjustor, nevertheless the effect of the adjustor upon Rio Grande Valley prices is negated by the premium pricing.

Under these circumstances it is concluded that the present supply-demand adjustment provisions should be deleted from the order.

5. *Proposal for handler pooling.* The order should continue to return to producers proceeds from the sale of their milk by means of a marketwide type of pool.

A handler proposed that the present marketwide pool should be replaced by handler pools. This handler operates a large milk production unit. His proposal was supported by another handler who produces part of his needs for fluid use. New Mexico Milk Producers Association also supported the proposal, as did another handler without own farm production who uses considerable Class II milk for his ice cream production. The proposal was vigorously opposed by MPI, the cooperative association which takes responsibility for handling reserve milk supplies, and for assuring its members a market for their milk.

In support of his proposal the proponent handler claimed that it would:

1. Put the business of regulating milk supplies back in the hands of the milk processor who better than anyone else can project his sales requirements;

2. Stop the present wasteful practice of milk from outside the area being imported when local milk is being exported for surplus removal;

3. Stabilize the number of producers in other order areas that become Rio Grande Valley producers;

4. Remove incentive for handlers with own production to become producer-handlers;

5. Give milk producers a higher uniform price; and

6. Eliminate need for Class I premiums which increase prices to producers.

It was clear from the proponent's testimony that he expected that under handler pooling milk supplies for the market would be reduced and that this reduction would be principally in deliveries of milk from producers whose farms are outside the marketing area. Handler pooling might reduce the volume of milk priced under the order and the number of producers supplying milk to the market. This would be because handlers without facilities for processing milk in excess of fluid needs would continue to restrict their receipts to their needs for fluid use. As a consequence, producers whole milk was not accepted by pool plants with fluid distribution would receive no share of the Class I sales of the market and might no longer have producer status on the market.

It does not follow, however, that most such producers would be those whose farms are at substantial distance outside the marketing area. Various groups of such producers have supplied the market in the past, and under varying conditions. In 1964, when 83 percent of producer milk was used in Class I, 9.8 percent of it was from outside-area producers; for 1965, the comparable percentages were 81 percent in Class I and nine percent from outside area; for 1966, 80 percent and 11.9 percent; for 1967, 77 percent and 9.8 percent; and for January–April 1968, 73 percent in Class I and 19.8 percent from outside the area.

Invariably these outside producers have been members of cooperative associations which have as their primary function supplying the needs of some other Federal order market, and which also operate surplus disposal facilities in such other market. Supplies in the other markets have been such that milk was available for Rio Grande Valley handlers. These cooperative associations have thus been in position to supply the Rio Grande Valley handlers with milk as needed for fluid use while they could manufacture reserve supplies without delivery costs.

Sale of producer milk under the Rio Grande Valley market is attractive to such organizations when the blend price (plus Class I premium, if any) exceeds the manufacturing value of such milk by more than transportation costs. Under a handler pooling system the handlers who have found distant milk a satisfactory source of producer milk supply may be expected to have higher than average blend prices. They are handlers with higher than average utilization. Consequently, the market will continue to be attractive to such supplies.

Presently, producer milk from distant sources shares through the marketwide blend price of the order any surplus that it may cause in supplies for the market. Under handler pooling, it could replace local supplies in additional pool plants without affecting the blend prices it would receive. Except for the predicted elimination of premium pricing, no basis was shown why handlers who now get distant supplies would prefer local supplies under handler pooling. Two such Rio Grande Valley pool plants are operated by cooperative associations which are primarily engaged in supplying milk under other orders.

It is difficult to see how handler pools would provide a satisfactory result in the market. Handlers have no facilities for using reserve milk supplies beyond their needs for cottage cheese and ice cream. They can be assured of dependable supplies of local milk to meet their varying needs for Class I use only if there is some organization in position to supply such milk as it is needed, and to provide the means for disposal of daily and seasonal reserve milk not currently used by the handler. No local producer organization can provide these services without sharing fully the Class I utilization of the market. Otherwise, the utilization of its members' milk could be reduced substantially below the market average. The blend prices the cooperative association performing such services would return to its members would be less than those paid other producers who did not provide such services. The proposal for handler pools should be denied.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General findings. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on exceptions. In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled respectively, "Marketing Agreement Regulating the Handling of Milk in the Rio Grande Valley Marketing Area", and "Order Amending the Order Regulating the Handling of Milk in the Rio Grande Valley Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which will be published with this decision.

Determination of representative period. The month of June 1968 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Rio Grande Valley marketing area, is approved or favored by producers, as defined under the terms of the order, as amended and as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on August 26, 1968.

JOHN A. BAKER,
Acting Secretary.

Order[1] *Amending the Order Regulating the Handling of Milk in the Rio Grande Valley Marketing Area*

§ 1138.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record*. Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Rio Grande Valley marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Rio Grande Valley marketing area shall be in conformity to an in compliance with the terms and conditions of the aforesaid order, as amended and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Acting Deputy Administrator, Regulatory Programs, on August 6, 1968, and published in the FEDERAL REGISTER on August 10, 1968 (33 F.R. 11409; F.R. Doc. 68-9556), shall be and are the terms and provisions of this order, and are set forth in full herein:

1. In § 1138.51, paragraph (a) is revised to read as follows:

§ 1138.51 Class prices.

* * * * *

(a) *Class I price*. The Class I price at plants located in Zone I (comprising all the counties in the marketing area except those specified in § 1138.52 as comprising Zones II and III) shall be the basic formula price for the preceding month plus $2.15 and plus 20 cents through April 1969.

* * * * *

2. In § 1138.55 the introductory text preceding paragraph (a) and paragraph (b) are revised to read as follows:

§ 1138.55 Credit for specified Class II uses.

From the effective date hereof through August 1969, producer milk classified as Class II milk in the following utilizations shall be subject to a credit at the respective rates specified:

* * * * *

(b) For skim milk in producer milk used to produce condensed skim milk, and for milk or skim milk transferred or diverted as Class II milk to a nonpool plant located outside the marketing area from a pool plant or from farms located within the marketing area, at the rate specified in paragraph (a) of this section, less 40 cents.

* * * * *

[F.R. Doc. 68-10475; Filed, Aug. 29, 1968; 8:46 a.m.]

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

[9 CFR Part 318]

MEAT INSPECTION REGULATIONS

Reinspection of Products; Frozen Products

Notice is hereby given in accordance with administrative procedure provisions in 5 U.S.C. 553 that the Department of Agriculture, pursuant to the authority conferred by the Federal Meat Inspection Act (34 Stat. 1260, 21 U.S.C. 71-91, as amended by Public Law 90-201), proposes to amend § 318.1 of the Meat Inspection Regulations (9 CFR 318.1) to provide for utilization of Statistical Sampling Plans, similar in principle and operation to those in 7 CFR, Part 43, for the reinspection of meat, meat food products and meat byproducts at federally inspected establishments, as follows:

§ 318.1 Reinspection of products; frozen products.

(a) All products, whether fresh, cured, or otherwise prepared, even though previously inspected and passed, shall be reinspected by Division employees as often as may be necessary in order to ascertain whether they are sound, healthful, wholesome, and fit for human food at the time they leave official establishments. This reinspection procedure may be accomplished through the use of statistically sound sampling plans that assure a high level of confidence. Meat Inspection supervisors shall designate the type of plan and the inspector shall select the specific plan to be used.[1] If upon reinspection, any article is found to have become adulterated, all official inspection legends thereon shall be removed or defaced and the article shall be condemned and destroyed for human food purposes in accordance with the Federal Meat Inspection Act.

(b) Care shall be taken to see that product is in good condition when placed in freezers at official establishments and, also, when it is removed from freezers at official establishments for transportation or storage elsewhere. If there is doubt as to the soundness of any frozen product, the inspector will require the defrosting and reinspection of a sufficient quantity thereof to determine its actual condition. The reinspection may be accomplished through utilization of statistical sampling plans.

Statement of considerations. Maintaining a clean, safe, and wholesome meat supply remains a prime function of the consumer protection services of the Department of Agriculture.

The present regulation provides for reinspection of all products as often as may be necessary in order to ascertain whether they are sound, healthful, wholesome, and fit for human food but no specified, uniform reinspection method has been adopted for program-wide application. This amendment would apply a consistent type and standard of re-

[1] Further information concerning sampling plans which have been adopted for specific products may be obtained from the Officers in Charge of Meat Inspection Program Circuits.

inspection throughout the Meat Inspection Program. A uniform system of reinspection would be advantageous to the meat packing industry.

Modern mechanized packing house industry operations have resulted in much faster slaughtering operations and greater volumes of product. These greater volumes of product and mechanized handling methods necessitate the utilization of statistical sampling plans to assure the American consumer of a clean, wholesome meat supply because one hundred percent reinspection is not practical nor economical.

Any person who wishes to submit written data, views, or arguments concerning the proposed amendment may do so, by filing them, in duplicate, with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, within 60 days after the date of publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 27th day of August 1968.

R. K. SOMERS,
Deputy Administrator,
Consumer Protection.

[F.R. Doc. 68-10516; Filed, Aug. 29, 1968; 8:50 a.m.]

[9 CFR Part 327]

INSPECTION OF IMPORTED MEAT PRODUCTS

Fresh, Chilled, or Frozen, Boneless Manufacturing Meat

Notice is hereby given, in accordance with the provisions of 5 U.S.C. 553, that the Consumer and Marketing Service proposes to amend Part 327 of the Meat Inspection Regulation (9 CFR Part 327), relating to imported meat products, pursuant to the authority conferred by the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), as indicated below.

Statement of considerations. The purpose of the proposed amendments is to provide a more efficient procedure for inspection of fresh chilled or frozen, boneless, manufacturing meat of cattle, sheep, swine, goats, and equines offered for importation.

Section 327.8(m) of the regulations provides that all lots of imported frozen boneless manufacturing meat shall be sampled and that the samples shall be completely defrosted and given a thorough examination. The inspection standards for foreign frozen meat are the same as those used for domestic frozen meat. Under the regulations it has been the practice to permit an importer whose lot has been refused entry to sort out identifiable portions of the lot which contain the defects, reexport or render these portions unfit for human food, and resubmit the balance of the lot for reinspection (including resampling) for acceptance for entry. This procedure is costly to the Meat Inspection Program.

Equal protection would be afforded to consumers of meat products, and unnecessary inspection costs would be avoided if procedures as outlined below were adopted when a portion of the lot is identified as consisting of a different type of meat or as having been prepared in a different production run than the remainder of the lot. In such cases an evaluation of the inspection findings for each portion separately would result in a more valid disposition of the product in each portion. It also appears that the procedures could be adopted in case of prolonged delay in unloading from ships any large lot of product consisting of several such portions. Further it appears that greater consumer protection would be attained if the procedures were applied to portions of the lots which otherwise qualify for entry upon the initial evaluation of inspection findings.

Therefore it is proposed to amend the regulations in Part 327 as follows:

1. Section 327.8(m) would be amended to read as follows:

§ 327.8 Import meat or meat food products; program inspection; arrival, time and place; movement from port of entry.

* * * * *

(m) A sufficient sampling inspection shall be made of each lot of foreign fresh chilled or frozen fresh meat, including defrosting if necessary, to determine its condition (see § 327.22).

* * * * *

2. A new § 327.22 would be added to Part 327 to read:

§ 327.22 Special inspection procedures for fresh chilled or frozen, boneless, manufacturing meat.

(a) *Definitions: sampling; standards.* (1) All lots of imported frozen, boneless, manufacturing meat will be sampled and such samples defrosted for inspection in accordance with this paragraph. The inspector will select from each lot the appropriate number of cartons specified by the table of sampling plans contained in the current U.S. Department of Agriculture Manual of Meat Inspection Procedures.[1] The total sample for inspection will consist of the necessary number of 12-pound units drawn from these cartons. The 12-pound units selected will be completely defrosted and subjected to a thorough examination. Inspection standards for foreign frozen meat shall be the same as those used for domestic frozen meat, subject to the provisions of this section.

(2) Frozen, boneless, manufacturing meat is meat from cattle, sheep, swine, goats, horses, mules, and other equines that has all bone removed and is cut into pieces or trimmings, frozen into a compact block of any shape and suitable for slicing or chopping in the manufacturing of meat food products. Individual pieces or trimmings must not be smaller than a 2-inch cube or a piece comparable in size. As used in this section the term "frozen" includes "fresh chilled," and "lot" means any amount of frozen, boneless, manufacturing meat of one species, similarly packaged, shipped from one establishment, and offered for import inspection under one or more foreign inspection certificates.

(b) *Lots refused entry.* Reinspection (including resampling) will be provided for any lot of frozen, boneless, manufacturing meat which was refused entry under this section of the basis of the original evaluation of the sample thereof only if there is reason to question the judgment of the inspector in making the evaluation. If, in other cases, any portion of any lot refused entry is identified by markings as consisting of any particular type of meat (e.g. as made from beef trimmings or from chucks or rounds) which differs from all other types of meat in the lot or is identified by a production date or shift mark which distinguishes it from all other meat in the lot, the eligibility of each such portion of the lot for importation will be evaluated upon the basis of the original inspection findings and in accordance with standards specified for this purpose in instructions issued to the inspectors.[2] Portions of the lot so found eligible for entry will be admitted and the remainder of the lot will be refused entry.

(c) *Certain lots found to qualify as lots for entry.* If it is found upon initial evaluation of the sample of any lot of frozen, boneless manufacturing meat that the lot as a whole meets the inspection standard for entry but such lot includes any portion identified by markings as consisting of any particular type of meat different than all other types of meat in the lot or identified by a different production date or shift mark than the remainder of the lot, the eligibility for importation of such portion of the lot shall be evaluated, upon the basis of the original inspection findings and in accordance with standards specified for this purpose in instructions issued to the inpectors.[2] Any portion of the lot found ineligible for entry upon such evaluation will be refused entry and the remainder of the lot will be admitted.

(d) *Lots for which unloading is delayed.* If a portion of a lot is unloaded from a ship on any day and the unloading of the remainder of the lot is being delayed beyond the following day, the eligibility for importation of each portion which is identified by markings as consisting of any particular type of meat different than all other types of meat in the lot or identified by a different production date or shift mark than the remainder of the lot, may be evaluated at the importer's request separately in accordance with standards specified for

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[1] Copies of such table are available, upon request, from Processed Meat Inspection Division, C&MS, USDA, Washington, D.C. 20250.

[2] Copies of such instructions are available, upon request, from Processed Meat Inspection Division, USDA, C&MS, Washington, D.C. 20250.

this purpose in instructions issued to the inspectors.[2]

To implement the changes in the regulations if the above amendments are adopted, it is proposed to revise the instructions to the inspectors which appear in the Manual of Meat Inspection Procedures, with respect to the inspection of imported, frozen boneless, manufacturing meat.[3]

Any person who wishes to submit written data, views, or arguments concerning the proposed amendments and procedure may do so by filing them with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, in duplicate, within 60 days after date of publication hereof in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

Done at Washington, D.C., this 27th day of August 1968.

R. K. SOMERS,
Deputy Administrator, Consumer Protection.

[F.R. Doc. 68-10517; Filed, Aug. 29, 1968; 8:50 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 81]

AIR QUALITY CONTROL REGIONS

Notice of Proposed Designation of New Jersey-New York-Connecticut Interstate Air Quality Control Region; Consultation With Appropriate State and Local Authorities

Pursuant to authority delegated by the Secretary and redelegated to the Commissioner of the National Air Pollution Control Administration (33 F.R. 9909), notice is hereby given of a proposal to designate the New Jersey-New York-Connecticut Interstate Air Quality Control Region as set forth in the following new § 81.13 which would be added to Part 81 of Title 42, Code of Federal Regulations. (This new part has been proposed in 33 F.R. 10882.) It is proposed to make such designation effective upon republication.

Interested persons may submit written data, views, or arguments in triplicate to the Office of the Commissioner, National Air Pollution Control Administration, Ballston Center Tower II, Room 905, 801 North Randolph Street, Arlington, Va. 22203. All relevant material received not later than 30 days after the publication of this notice will be considered.

Interested authorities of the States of New Jersey, New York, and Connecticut and appropriate local authorities, both within and without the proposed region, who are affected by or interested in the proposed designation, are hereby given notice of an opportunity to consult with representatives of the Secretary concerning such designation. Such consultation will take place at the U.S. Mission to the United Nations, 799 United Nations Plaza (45th Street at 1st Avenue), New York City, N.Y., beginning at 10 a.m., September 30, 1968.

Mr. Doyle J. Borchers is hereby designated as Chairman for the consultation. The Chairman shall fix the time, date, and place of later sessions and may convene, reconvene, recess, and adjourn the sessions as he deems appropriate to expedite the proceedings.

State and local authorities wishing to participate in the consultation should notify the Office of the Commissioner, National Air Pollution Control Administration, Ballston Center Tower II, Room 905, 801 North Randolph Street, Arlington, Va. 22203, of such intention by September 16, 1968.

A report prepared for the consultation, entitled "Report for Consultation on the Air Quality Control Region for the New Jersey-New York-Connecticut Interstate Area," is available upon request to the Office of the Commissioner.

In Part 81 a new § 81.13 is proposed to be added to read as follows:

§ 81.13 New Jersey-New York-Connecticut Interstate Air Quality Control Region.

The New Jersey-New York-Connecticut Interstate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Connecticut:
Greenwich Township.
Stamford Township.
Darien Township.
New Cannan Township.
Norwalk Township.
Wilton Township.
Weston Township.
Westport Township.
Fairfield Township.
Easton Township.
Bridgeport Township.
Stratford Township.
Trumbull Township.
Monroe Township.
Ridgefield Township.
Redding Township.
Newtown Township.
Bethel Township.
Danbury Township.
Brookfield Township.
New Fairfield Township.

In the State of New York:
Kings County.
Bronx County.
Nassau County.
New York County.
Queens County.
Richmond County.
Westchester County.
Rockland County.

In the State of New Jersey:
Bergen County.
Essex County.
Hudson County.
Middlesex County.
Monmouth County.
Morris County.
Passsaic County.
Somerset County.
Union County.

This amendment is proposed under the authority of sections 107(a) and 301(a) of the Clean Air Act, section 2, Public Law 90-148, 81 Stat. 490, 504, 42 U.S.C. 1857c-2(a), 1857g(a).

Dated: August 27, 1968.

JOHN T. MIDDLETON,
Commissioner, National Air Pollution Control Administration.

[F.R. Doc. 68-10508; Filed, Aug. 29, 1968; 8:49 a.m.]

[2] See footnote on p. 12259.

[3] Proposed revision of instructions filed as part of the original document.

Notices

DEPARTMENT OF STATE

[Public Notice 297]

CERTAIN NONIMMIGRANT VISAS

Validity

Public Notice 261 of April 6, 1967 authorized consular officers to issue, in their discretion, nonimmigrant visas under section 101(a)(15)(B) of the Immigration and Nationality Act valid for an indefinite period of time to otherwise eligible nationals of certain countries which offer reciprocal or more liberal treatment to nationals of the United States who are in a similar class. Singapore is being added to the list of countries contained in that notice.

This notice amends Public Notice 261 of April 6, 1967 (32 F.R. 5643).

Dated: August 27, 1968.

FREDERICK SMITH, Jr.,
Acting Administrator, Bureau of Security and Consular Affairs.

[F.R. Doc. 68-10515; Filed, Aug. 29, 1968; 8:50 a.m.]

DEPARTMENT OF COMMERCE

National Bureau of Standards

GEOALERTS BROADCAST BY NBS RADIO STATIONS

Notice of Change in Coding

Beginning October 1, 1968, the coding system for GEOALERTS [1] instituted on January 1, 1968, for broadcasts by NBS radio stations will be modified slightly. The new system makes possible the dissemination of larger quantities of information resulting from improved techniques in observation and prediction of solar and geophysical events. All previous codes are superseded.

Decisions are made each day at 0400 G.m.t.[2] at the IUWDS World Warning Agency, ESSA. GEOALERTS for a given day are first broadcast at 0418 G.m.t. on station WWV, Fort Collins, Colo., then at 0448 G.m.t. on station WWVH, Maui, Hawaii, and these broadcasts are repeated at hourly intervals until the new alert is issued. (In case of delay in receipt of the daily message, WWV or WWVH will be silent at 18 or 48 minutes after the hour G.m.t. until the new message is received.) Each message begins with the letters GEO in Morse code followed by the coded information. The coding permits three types of information at each broadcast—each in the form of a group of three letters repeated three times in slow International Morse Code.

The first set concerns either forecasts of the solar or geophysical event, or the observation of a stratospheric warming (STRATWARM), together with the forecast of a solar or geophysical event when appropriate. Letters which may occur in the first set and their meaning are as follows:

1st letter—
- EEE (.) No forecast (or STRATWARM observation) statement.
- III (. .) FLARES expected.
- SSS (. . .) PROTON FLARE expected.
- TTT (—) MAGSTORM expected.
- UUU (. . —) FLARES AND MAGSTORM expected.
- VVV (. . . —) PROTON FLARE and MAGSTORM expected.
- HHH (. . . .) STRATWARM observed.
- DDD (— . .) STRATWARM observed and FLARES expected.
- BBB (— . . .) STRATWARM observed and PROTON FLARE expected.
- MMM (— —) STRATWARM observed and MAGSTORM expected.

The second and third sets of letters pertain to the approximate time of occurrence of an observed solar or geophysical event. The coding for the beginning time and type of event is shown in the table given below:

	Day before that of issue (hours G.m.t.)				Day of issue	IN PROGRESS	NIL
	00-06	06-12	12-18	18-24	00-04		
2d letter set: PROTON EVENT	MMM (— —)	TTT (—)	HHH (. . . .)	SSS (. . .)	III (. .)	GGG (— — .)	EEE (.)
3d letter set: GEOMAGNETIC STORM	UUU (. . —)	AAA (. —)	BBB (— . . .)	DDD (— . .)	NNN (— .)	PPP (. — — .)	EEE (.)

For example, the following message (in International Morse Code)

"GEO SSS EEE DDD"

signifies:

"GEO=Solar geophysical message.
SSS = PROTON FLARE expected.
EEE=No PROTON EVENT between 0000 G.m.t. yesterday and 0400 G.m.t. today.
DDD=GEOMAGNETIC STORM began between 1800-2400 G.m.t. yesterday."

A. V. ASTIN,
Director.

AUGUST 20, 1968.

[F.R. Doc. 68-10468; Filed, Aug. 29, 1968; 8:45 a.m.]

[1] International Ursigram and World Days Service, Circular Letter RWC-104, July 12, 1968 (Copy of letter may be obtained by writing to J. V. Lincoln, Deputy Secretary, IUWDS, ESSA, R43.7, Boulder, Colo. 80302).

[2] Greenwich mean time, also called Universal Time (UT).

NATIONAL BUREAU OF STANDARDS RADIO STATIONS

Notice of Standard Frequency and Time Broadcasts

In accordance with National Bureau of Standards policy of giving notice regarding changes in broadcast schedules of its radio stations, notice is hereby given that from 1500 hours UT (Universal Time), October 2, until 1800 hours UT, October 3, 1968, normal service will be interrupted and the broadcast of station WWVL, Fort Collins, Colo., will consist of the single frequency of 19.9 kHz C.W. On October 8, 1968, at the end of the normal maintenance period, the broadcast of WWVL will resume with the frequency of 19.9 kHz replaced by the frequency of 20.5 kHz. At 1500 hours UT October 9 until 1800 hours UT October 10, 1968, normal service will be interrupted and the broadcast of WWVL will consist of the single frequency 20.5 kHz C.W. At 1500 hours UT October 16 until 1800 hours UT October 17, 1968, normal service will be interrupted and the broadcast of WWVL will consist of the single frequency 20.0 kHz C.W. From November 27 until December 3, 1968, broadcasts will be suspended during installation of new control equipment. On December 3, 1968, the broadcasts will change to include the three frequencies of 19.9, 20.0, and 20.5 kHz each day on a schedule which is not yet determined. Further announcements will follow. Inquiries or comments on this program are invited and should be directed to the Frequency and Time Broadcast Services Section, National Bureau of Standards, Boulder, Colo. 80302.

A. V. ASTIN,
Director.

AUGUST 21, 1968.

[F.R. Doc. 68-10469; Filed, Aug. 29, 1968; 8:45 a.m.]

NATIONAL BUREAU OF STANDARDS RADIO STATIONS

Notice of Standard Frequency and Time Broadcasts

In accordance with National Bureau of Standards policy of giving monthly notices regarding changes of phases in seconds pulses, notice is hereby given that there will be no adjustment in the phase of seconds pulses emitted from radio station WWVB, Fort Collins, Colo., on October 1, 1968. The carrier frequency of WWVB is 60 kHz and is broadcast without offset. These emissions are made following the stepped atomic time (SAT) system as coordinated by the Bureau International de l'Heure (BIH).

Notice is also hereby given that there will be no adjustments in the phases of time pulses emitted from radio stations WWVB, Fort Collins, Colo., and WWVH, Maui, Hawaii, on October 1, 1968. These pulses at present occur at intervals which are longer than one second by 300 parts in 10^{10}. This is due to the offset maintained in the carrier frequencies of these stations following the universal time (UTC) system as coordinated by the BIH.

A. V. Astin,
Director.

August 21, 1968.

[F.R. Doc. 68-10470; Filed, Aug. 29, 1968; 8:45 a.m.]

Office of the Secretary

[Dept. Order 90-B, Amdt. 1]

NATIONAL BUREAU OF STANDARDS

Organization and Functions

This material amends the material appearing at 33 F.R. 7770 of May 28, 1968.

Department Order 90-B of May 15, 1968, is hereby amended as follows:

1. In section 4 *Special staff units*, a new paragraph .06 is added to read:

.06 The *Special Assistant for Program Planning* assists the Director in developing guidelines for bureau programs and in reviewing plans submitted by bureau program managers.

2. In section 5 *Office of Program Development and Evaluation*, is "deleted" and shall be so identified.

3. In section 9 *Institute for Basic Standards*:

a. A new paragraph .04 is added to read:

.04 The *Office of Measurement Services* coordinates the bureau's measurement services program, including development and dissemination of uniform policies on bureau calibration practices.

b. The current paragarph ".04" is renumbered ".05."

4. In section 11 *Institute for Applied Technology*:

a. The division title in paragraph .09 is changed to read "Electronic Technology Division."

b. Paragraph .12 is "deleted" and shall be so identified.

Effective date: July 29, 1968.

David R. Baldwin,
Assistant Secretary for Administration.

[F.R. Doc. 68-10460; Filed, Aug. 29, 1968; 8:45 a.m.]

[Dept. Order 172-B]

UNITED STATES TRAVEL SERVICE

Organization and Functions

The following order was issued by the Secretary of Commerce on August 1, 1968. This material supersedes the material appearing at 32 F.R. 6375 of April 22, 1967.

Section 1. *Purpose*. The purpose of this order is to prescribe the organization and assignment of functions within the U.S. Travel Service.

Sec. 2. *Organization structure*. The principal organization structure and line of authority of the U.S. Travel Service shall be as depicted in the attached organization chart.

Sec. 3. *Office of the Director*. .01 The Director determines policy, directs the programs and is responsible for all activities of the U.S. Travel Service.

.02 The Deputy Director shall be the principal assistant to the Director and shall perform the duties of the Director during the latter's absence.

Sec. 4. *Staff Offices*. .01 The Office of Administration shall arrange for and facilitate the provision of administrative services from the Office of the Secretary as needed by the headquarters of the U.S. Travel Service, develop and maintain the internal administrative management system of the Service, perform evaluative, analytic, and developmental work to assist the Director in assuring that the best management practices are utilized, both in the headquarters and in the field, and perform specific administrative tasks as directed by the Director.

.02 The Office of Research and Analysis shall assist in planning long-range travel promotion programs and servicing private business with travel data useful in marketing international travel by improved qualitative analysis of travel statistics and development of information on travel markets. Specifically, the Office shall study the patterns of international travel and the economic effects of tourism; develop statistical data on the travel account in the balance of payments; conduct and interpret market research to measure results of the promotional program; evaluate the effect of legislation and regulatory decisions on international travel; and prepare and coordinate position papers for intergovernmental and international travel meetings.

.03 The Office of Public Information shall plan and conduct an information program for the U.S. Travel Service which presents the organization's accomplishments and activities to the public; create an awareness of the U.S. Travel Service role and contributions to the travel industry and coordinate public information activities within the organization and maintain close contact with communication media. The Office shall advise the Director and other U.S. Travel Service officials on publications, motion pictures and information policies and shall provide publicity to insure proper public understanding of activities and objectives of the VISIT USA program. The Office shall develop articles, pictorial material and publications about travel in the United States for response to inquiries from the general public, visitors, editors and radio, television and film producers to support the public relations programs of the U.S. Travel Service offices abroad.

Sec. 5. *Marketing Division*. The Marketing Division shall develop and implement programs of travel advertising, publicity, travel promotion materials and projects, and coordinate all other promotional activities abroad. The Office shall maintain close professional contact with the travel industry in the United States, to provide current data for the use of U.S. Travel Service offices abroad, such as cost, price, and travel information. The Office shall assist and advise the travel industry on the design and content of promotion materials for the world's principal travel markets; provide useful sales promotion tools and materials in foreign language to U.S. Travel Service regional offices and U.S. Government missions abroad in order to help the travel trade and the prospective traveler favorably compare the United States with other destinations; and develop and place advertising in trade and other communication media abroad to stimulate travel to the United States.

Sec. 6. *Visitor Services Division*. The Visitor Services Division shall develop programs to assure a friendly welcome in the United States for international visitors and to generally improve the Nation's host services. The Office shall have primary responsibility for the U.S. Travel Service relationship with States and cities; carry campaigns in the United States to stimulate interest in the visitor from abroad; make Americans aware of the importance of visitors and of extending a friendly and cordial welcome to our guests; and assist communities in attracting more international visitors and in adapting their facilities to meet the needs of overseas visitors; cooperate with the travel industry—hotels, motels, restaurants, sightseeing, and transportation companies, and airports and terminals—in bolstering their services for visitors from other nations. The Office shall work to lessen travel barriers, including cooperation with Federal agencies at our ports of entry to expedite the entrance formalities for our overseas guests and help make the Nation's reception of our visitors more pleasant and gracious.

Sec. 7. *Regional offices*. The regional offices, which shall be located in the strategic cities abroad as shown in the organization chart, shall serve as the point of contacts with the major potential markets for increased tourism to the United States. More particularly, the offices shall work directly with international carriers, travel agents and tour operators on all aspects of travel to the United States; carry the VISIT USA message to the general public through mass media advertising, special promotional projects with the travel industry, and publicity in the local media; and distribute to foreign travel sales outlets materials in the language of the country supporting the United States as a satisfying travel experience and a good travel value.

Effective date: August 1, 1968.

DAVID R. BALDWIN,
Assistant Secretary for Administration.

[F.R. Doc. 68-10461; Filed, Aug. 29, 1968; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

FARMLAND INDUSTRIES, INC.

Notice of Filing of Petition for Food Additive Polyethylene

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition has been filed by Farmland Industries, Inc., Post Office Box 7305, Kansas City, Mo. 64116, proposing the issuance of a food additive regulation (21 CFR Part 121) to provide for the safe use of polyethylene pellets as a partial roughage replacement in ruminant feeds.

Dated: August 23, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-10503; Filed, Aug. 29, 1968; 8:48 a.m.]

GENERAL ELECTRIC CO.

Notice of Filing of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 9B2322) has been filed by General Electric Co., 1 Plastics Avenue, Pittsfield, Mass. 01201, proposing that § 121.2559 *Xylene-formaldehyde resins condensed with 4,4'-isopropylidenediphenol-epichlorohydrin epoxy resins* (21 CFR 121.2559) be amended (1) to provide for the safe use of resins produced by the condensation of allyl ether of mono-, di-, or tri-methylol phenol and capryl alcohol as optional adjuvants and (2) to expand the regulation to provide for use of its subject resins in food-contact articles that are hot-filled or are pasteurized after filling.

Dated: August 23, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-10504; Filed, Aug. 29, 1968; 8:49 a.m.]

METACHEM, INC.

Notice of Withdrawal of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Metachem, Inc., 425 Park Avenue, New York, N.Y. 10022, on behalf of Farbenfabriken Bayer, A.G., Leverkusen, Federal Republic of Germany, has withdrawn its petition (FAP 8B2226), notice of which was published in the FEDERAL REGISTER of October 25, 1967 (32 F.R. 14791), proposing an amendment to § 121.2566 *Antioxidants and/or stabilizers for polymers* to provide for the safe use of a 2-phenyl indole as a stabilizer in polymers used in the manufacture of articles intended for food-contact use.

Dated: August 21, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-10505; Filed, Aug. 29, 1968; 8:49 a.m.]

SCHERING CORP.

Notice of Withdrawal of Petition for Food Additives Amprolium, Dienestrol Diacetate, Chlortetracycline, Zinc Bacitracin

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Schering Corp., Bloomfield, N.J. 07003, has withdrawn its petition, notice of which was published in the FEDERAL REGISTER of July 9, 1966 (31 F.R. 9425), proposing the amendment of certain food additive regulations in Subpart C of Part 121 (21 CFR Part 121) to provide for the safe use of the combination of dienestrol diacetate and chlortetracycline or zinc bacitracin at growth promotant and therapeutic levels alone or in combination with amprolium in chicken feed.

Dated: August 23, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-10506; Filed, Aug. 29, 1968; 8:49 a.m.]

WYANDOTTE CHEMICALS CORP.

Notice of Filing of Petition for Food Additives Sanitizing Solutions

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 9H2324) has been filed by Wyandotte Chemicals Corp., 1609 Biddle Avenue, Wyandotte, Mich. 48192, proposing an amendment to § 121.2547 *Sanitizing solutions* to provide for the safe use of an aqueous solution containing the sodium salt of sulfonated oleic acid, polyoxyethylene-polyoxypropylene block polymers (having an average molecular weight of 2,000, and 27–31 moles of polyoxyethylen), and components generally recognized as safe, as a sanitizing solution for food-processing equipment and utensils and on glass bottles and other glass containers intended for holding milk.

Dated: August 23, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-10507; Filed, Aug. 29, 1968; 8:49 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 20096; Order 68-8-107]

AIR TIME, INC.

Order To Show Cause Regarding Establishment of Service Mail Rate

Issued under delegated authority August 26, 1968.

The Postmaster General filed a notice of intent August 12, 1968, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above captioned air taxi operator, a final service mail rate of 52.9 cents per great circle aircraft mile for the transportation of mail by aircraft between Kinston, N.C., and Charlotte, N.C., via Fayetteville, N.C.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with twin-engine Beechcraft, Model D-18-S aircraft equipped for all-weather operation.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order [1] to include the following findings and conclusions:

[1] As this order to show cause is not a final action but merely affords interested persons an opportunity to be heard on the matters herein proposed, it is not regarded as subject to the review provisions of Part 385 (14 CFR Part 385). These provisions for Board review will be applicable to final action taken by the staff under authority delegated in § 385.14(g).

1. The fair and reasonable final service mail rate to be paid to Air Time, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between Kinston, N.C., and Charlotte, N.C., via Fayetteville, N.C., shall be 52.9 cents per great circle aircraft mile.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.14(f):

It is ordered, That:

1. Air Time, Inc., the Postmaster General, and Piedmont Aviation, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Air Time, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Air Time, Inc., the Postmaster General, and Piedmont Aviation, Inc.

This order will be published in the Federal Register.

[SEAL] Mabel McCart, *Acting Secretary*.

[F.R. Doc. 68-10480; Filed, Aug. 29, 1968; 8:46 a.m.]

[Docket No. 20100; Order 68-8-110]

AIRCREWS AND MAINTENANCE, INC.

Order To Show Cause Regarding Establishment of Service Mail Rate

Issued under delegated authority August 26, 1968.

The Postmaster General filed a notice of intent August 12, 1968, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above captioned air taxi operator, a final service mail rate of 30.45 cents per great circle aircraft mile for the transportation of mail by aircraft between Waycross, Ga., and Atlanta, Ga., via Macon, Ga.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Beechcraft Conrad Model D-18-S, twin-engine aircraft equipped for all-weather operation.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order[1] to include the following findings and conclusions:

1. The fair and reasonable final service mail rate to be paid to Aircrews and Maintenance, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between Waycross, Ga., and Atlanta, Ga., via Macon, Ga., shall be 30.45 cents per great circle aircraft mile.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.14(f):

It is ordered, That:

1. Aircrews and Maintenance, Inc., the Postmaster General, Eastern Air Lines, Inc., and Delta Air Lines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Aircrews and Maintenance, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Aircrews and Maintenance, Inc., the Postmaster General, Eastern Air Lines, Inc. and Delta Air Lines, Inc.

This order will be published in the Federal Register.

[SEAL] Mabel McCart, *Acting Secretary*.

[F.R. Doc. 68-10481; Filed, Aug. 29, 1968; 8:47 a.m.]

[1] As this order to show cause is not a final action but merely affords interested persons an opportunity to be heard on the matters herein proposed, it is not regarded as subject to the review provisions of Part 385 (14 CFR Part 385). These provisions for Board review will be applicable to final action taken by the staff under authority delegated in § 385.14(g).

[Docket No. 18922]

ST. LOUIS LIMITED SUPPLEMENTAL AIR SERVICE INVESTIGATION

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled investigation is assigned to be held on September 11, 1968, at 10 a.m., e.d.s.t., in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the Board.

Dated at Washington, D.C., August 26, 1968.

[SEAL] Thomas L. Wrenn, *Chief Examiner*.

[F.R. Doc. 68-10482; Filed, Aug. 29, 1968; 8:47 a.m.]

CIVIL SERVICE COMMISSION

SOCIAL INSURANCE OFFICER

Manpower Shortage; Notice of Listing

Under the provisions of 5 U.S.C. 5723, the Civil Service Commission has found that there is a manpower shortage for the single position of Social Insurance Officer GS-101-15 (Director, Community Planning Staff), Social Security Administration, Baltimore, Md. This finding terminates when the position is filled.

The appointee to this position may be paid for the expenses of travel and transportation to first post of duty.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 68-10486; Filed, Aug. 29, 1968; 8:47 a.m.]

CLAIMS EXAMINER

Manpower Shortage; Notice of Listing

Under the provisions of 5 U.S.C. 5723, the Civil Service Commission found a manpower shortage on August 13, 1968, for positions of Claims Examiner (Unemployment) GS-994-5. The authority is limited to Chicago, Ill., and a radius of 35 miles.

Assuming other legal requirements are met, appointees to these positions may be paid for the expenses of travel and transportation to first post of duty.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 68-10487; Filed, Aug. 29, 1968; 8:47 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 18302; FCC 68-862]

LAND MOBILE RADIO SERVICES

Notice of Inquiry Into Requirement for Car Locator Systems

In the matter of inquiry into the requirement for car locator systems in the land mobile radio services governed by Parts 89, 91, and 93 of the Commission's rules, Docket No. 18302.

1. The Federal Communications Commission has become aware that several electronic equipment companies are developing communication systems for automatic radiodetermination of the locations of moving land vehicles. The aim of these systems is to enable dispatchers to locate any or all cars in their fleet automatically so as to control their use more effectively. Some of the systems under design would not only transmit information about the location of a vehicle, but also include an additional frequency channel to be used to transmit emergency assistance messages from each vehicle.

2. The President's Commission on Law Enforcement and Administration of Justice studied the possibility of incorporating car locating systems in police operations and made these recommendations for their testing and development:

> An experimental program to develop a computer-assisted command-and-control system should be established with Federal support.
>
> A great deal of analysis and experimentation should precede and accompany the implementation of this proposal. Many possible equipment combinations will have to be weighed, basic organizational and procedural questions will be examined. The following programs should be undertaken to implement the system:
>
> Two or three large cities should be funded for a detailed study of their patrol operations in order to determine how they would use a computer-assisted command-and-control system.
>
> As part of the effort, an extensive reexamination of the communications systems should be undertaken to insure that channels are available, and to assess the utility of car locators and mobile teletype.
>
> Based on the results of the studies, one of the cities should be selected for installation of a prototype system.
>
> As the new system is developed, it should first be used in simulated operation in parallel with the manual system, then with a manual backup, and finally, take over control.
>
> The development process will need continual modification and testing and should be guided by an organization experienced in the development of large computer-based systems.

See the Commission's Report: The Challenge of Crime in a Free Society, p. 252.

3. That Commission discussed automatic car locator techniques in more detail in its Task Force Report on Science and Technology. It described the following four possible locator systems:

a. A system of patrol car emitters and call box sensors.

b. A modified radar transponder system.

c. A medium frequency radio-direction-finder system.

d. A car-borne position computation and reporting system.

In its report, it concluded:

> All four of the basic car locator techniques that have been discussed appear to be technically feasible. On the basis of the limited investigation possible here, the patrol car emitter-call box sensor system and the modified radar transponder system appear to offer the most promise.

See Task Force Report: Science and Technology, pp. 149-156.

4. Possible use of car locator systems, however, is not confined to the police. Municipal bus systems, railroads, taxicabs, among others, have been mentioned as potential users. In fact, we understand that plans are underway to test such a system in the bus operations of the city of Chicago with funds provided by the Federal Government.

5. In our rules governing the Public Safety, Industrial, and Land Transportation Radio Services (Parts 89, 91, and 93, respectively), frequencies are available for private radiolocation systems. The car locator systems described above come within the scope of the radiolocation service. Frequencies available for that purpose are in bands above 2400 Mc/s, except for certain frequencies lower in the spectrum which are available in the Industrial Radiolocation Service. A number of equipment manufacturers, however, are designing car locator systems to be operated on frequencies in the 450-470 Mc/s band which are, of course, allocated for two-way voice communications. In addition, tests to evaluate the possibility of operating car locator systems on frequencies above 1,000 Mc/s have been authorized. It appears to be possible for the "call box sensor" system, discussed by the President's Crime Commission, to be operated without using radio frequencies.

6. Although car locator radio systems are now in the development stage, we believe that this technological development should be examined at the outset in a public proceeding to explore its frequency and operational requirements. Accordingly, this inquiry is being instituted and comments are invited on the following points:

a. Information on existing car locator systems and techniques and those under development.

b. Information concerning the feasibility of transmitting location data simultaneously with two-way voice, particularly on a frequency now allocated for land mobile use.

c. Is there a need or a compelling desirability to standardize vehicular locator systems?

d. In a single metropolitan area should a multiplicity of locator systems be permitted or should service to all users be provided by a single system? What will be the impact on spectrum usage resulting from a policy permitting multiple systems, in a single locality?

e. If a single system is utilized, what type of operating entity should be authorized e.g., common carrier, a number of users jointly, a user cooperative, or some other entity.

f. Can an effective technical system be designed for operation on frequencies currently available to the Radiolocation Service? Since these frequencies are shared with the Radionavigation Service, would shared use result in a potential electromagnetic compatibility problem?

g. If radiolocation frequencies are not suitable for car locator systems, where in the frequency spectrum should such systems be permitted?

h. Should a frequency be made available to be used commonly by many users to summon assistance in an emergency?

i. What information is available concerning the type and potential number of users of each car locator system?

j. What are the capacities and frequency requirements of various vehicle location systems in terms of, e.g., vehicles per kHz of bandwidth?

k. The extent and kind of standards required to insure adequate station identification.

7. Many of the system designs that are under study and evaluation will require a period of actual operation in a land mobile environment before several of the questions we have raised can be answered. It is part of the intent of this notice to provide for and encourage such operation on a temporary basis. The license term of such developmental authorizations will extend for a period of 6 months and will be issued for the specific purpose of obtaining data and information relating to the performance of various systems under actual operational conditions. We caution users, however, against premature attempts to estab-

lish operations on a permanent basis and against the integration of vehicle locating systems into their operations in a manner that cannot be terminated when the data and information gathering program has been completed. We expect to issue a limited number of developmental authorizations, but a sufficient number to permit testing of various systems under actual conditions of operation in a mobile environment. Applicants for developmental authorizations will be required to present a clearly defined program for evaluation of problems, exploration of possibilities, and acquisition of operational and technical data requiring actual on-the-air operation. Periodic progress reports will be required with a complete report to follow the conclusion of the test.

8. The action taken here is of a preliminary nature that will look toward a later proceeding to modify the rules governing the Public Safety, Industrial, and the Land Transportation Radio Services to provide for the licensing of vehicle locator systems.

9. This action is taken pursuant to section 403 of the Communications Act of 1934, as amended. Interested parties responding to this inquiry shall furnish comments on or before February 28, 1969. An original and 14 copies of each response must be filed as required by § 1.419 of the Commission's rules.

Adopted: August 21, 1968.

Released: August 27, 1968.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 68-10488; Filed, Aug. 29, 1968; 8:47 a.m.]

[1] Commissioner Wadsworth absent.

FEDERAL MARITIME COMMISSION

HAWAII/ORIENT RATE AGREEMENT

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. A. L. Hotlen, Hawaii/Orient Rate Agreement, States Steamship Co., 320 California Street, San Francisco, Calif. 94104.

Agreement 8290-3, between member lines of the Hawaii/Orient Rate Agreement, expands the geographic scope covered by the basic agreement to include ports in Okinawa.

Dated: August 27, 1968.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 68-10491; Filed, Aug. 29, 1968; 8:47 a.m.]

PACIFIC COAST-AUSTRALASIAN TARIFF BUREAU

Notice of Petition Filed for Approval

Notice is hereby given that the following petition has been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762; 46 U.S.C. 814).

Interested parties may inspect a copy of the current contract form and of the petition, reflecting the changes proposed to be made in the language of said contract, at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 301; or at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to the proposed changes and the petition, including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the petition (as indicated hereinafter), and the comments should indicate that this has been done.

Notice of application to modify an approved dual rate contract filed by:

Mr. J. R. Harper, Secretary, Pacific Coast-Australasian Tariff Bureau, 635 Sacramento Streeet, San Francisco, California 94111.

The Pacific Coast-Autralasian Tariff Bureau, Agreement 50-1, as amended, has filed with the Commission an application to modify its approved form of exclusive patronage contract under section 14b of the Shipping Act, 1916. The proposed modification would include "currency devaluations by governmental action" as a force majeure circumstance warranting suspension of the system pursuant to Article 13(a) of the contract; or an appropriate increase in rates in lieu of suspension pursuant to Article 13(b) subject to the terms and conditions enumerated therein.

Dated: August 27, 1968.

By order of the Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 68-10492; Filed, Aug. 29, 1968; 8:47 a.m.]

ROYAL MAIL LINES, LTD., AND HOLLAND-AMERICA LINE

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Ronald A. Capone, Esq., Kirlin, Campbell and Keating, The Farragut Building, 900 17th Street NW., Washington, D.C. 20006.

Agreement 7765-4 between Royal Mail Lines, Ltd., and Holland-America Line modifies the existing rate, sailing and pooling agreement between the parties by adding Furness, Withy & Co., Ltd. as a party thereto.

Dated: August 27, 1968.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 68-10493; Filed, Aug. 29, 1968; 8:48 a.m.]

STATES MARINE LINES, INC., ET AL

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

States Marine Lines, Inc., Global Bulk Transport, Inc., and Isthmian Lines, Inc.

Notice of agreement filed for approval by:

Galland, Kharasch, Calkins and Lippman, 1824 R Street NW., Washington, D.C. 20009.

Agreement No. 9641-2, between States Marine Lines, Inc., Global Bulk Transport, Inc., as one party, and Isthmian Lines, Inc., modifies Article III of the basic joint service agreement to provide that the parties may participate in other agreements either collectively as one party only or individually so long as they are all parties to the same agreement. Accordingly, withdrawal of one party will require the withdrawal of all the parties.

Dated: August 27, 1968.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 68-10494; Filed, Aug. 29, 1968; 8:48 a.m.]

UNITED STATES LINES, INC., AND PACIFIC FAR EAST LINES, INC.

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. William A. Gannon, United States Lines, Inc., 1000 Connecticut Avenue NW., Washington, D.C. 20036.

Agreement 9279-1, between United States Lines, Inc., and Pacific Far East Lines, Inc., amends the basic transshipment Agreement 9279 by (1) expanding the geographic scope to include ports in South Vietnam and Thailand and, (2) identifying all of the current applicable tariffs in which the through rates are named under the agreement.

Dated: August 27, 1968.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 68-10495; Filed, Aug. 29, 1968; 8:48 a.m.]

SECURITIES AND EXCHANGE COMMISSION

ALSCOPE CONSOLIDATED, LTD.

Order Suspending Trading

AUGUST 26, 1968.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Alscope Consolidated, Ltd., Passaic, N.J., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15 (c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period August 27, 1968, through September 2, 1968, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 68-10464; Filed, Aug. 29, 1968; 8:45 a.m.]

[70-4666]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Proposed Issue and Sale of Notes to Banks

AUGUST 26, 1968.

Notice is hereby given that Michigan Wisconsin Pipe Line Co. ("Michigan Wisconsin"), 1 Woodward Avenue, Detroit, Mich. 48226, a nonutility subsidiary company of American Natural Gas Co., a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6 and 7 thereof as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Michigan Wisconsin proposes to issue and sell to a group of banks, from time to time commencing in September 1968 up to an aggregate of $71 million face amount of promissory notes to be outstanding at any one time. The notes will be dated as of the date of issuance and will mature March 31, 1970. They will be issued in varying amounts and at various dates as funds are required by the company. Each note will bear interest at the prime rate of First National City Bank, New York, in effect on the date of each issuance and the interest rate will be adjusted to the prime rate in effect at that bank at the beginning of each 90-day period subsequent to the date of the first borrowing. There is no commitment fee, and the notes may be prepaid at any time without penalty.

The proposed notes will be issued to the banks and in the maximum respective amounts shown below:

First National City Bank, New York, N.Y.	$25,000,000
Manufacturers Hanover Trust Co., New York, N.Y.	20,000,000
National Bank of Detroit, Mich.	10,000,000
Detroit Bank & Trust, Detroit, Mich	5,000,000
Marshall & Ilsley Bank, Milwaukee, Wis.	4,000,000
Manufacturers National Bank of Detroit, Mich.	2,500,000
First Wisconsin National Bank of Milwaukee, Wis.	2,500,000
Marine National Exchange Bank, Milwaukee, Wis.	2,000,000
	71,000,000

Michigan Wisconsin proposes to use the proceeds to finance construction in 1968 and 1969 and reimburse its treasury for amounts previously expended for such purposes. It is estimated that construction expenditures in 1968 will be $95,900,000.

The application states that the expenses to be incurred in connection with the proposed issuance of notes are estimated at $1,000, including a legal fee of $500. It is further stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than September 17, 1968, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 68-10465; Filed, Aug. 29, 1968; 8:45 a.m.]

[File No. 2-16600 (22-2817)]

MILES LABORATORIES, INC.

Notice of Application and Opportunity for Hearing

AUGUST 26, 1968.

Notice is hereby given that Miles Laboratories, Inc. (the "Company"), has filed an application under Clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Commission that the trusteeship of First National City Bank ("First National") under an indenture dated July 1, 1960 (the "1960 Indenture"), heretofore qualified under the Act, and under a new indenture dated June 15, 1968 (the "New Indenture"), not qualified under the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify First National from acting as Trustee under such indentures.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in such Section), it shall within 90 days after ascertaining that it has such conflicting interest either eliminate such conflicting interest or resign. Subsection (1) of such Section provides, in effect, with certain exceptions, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same obligor are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the same obligor are outstanding, if the obligor shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

The Company alleges that:

(1) As of July 31, 1968, there were outstanding $2,251,900 principal amount of 4¾ percent convertible subordinated debentures due 1980 which were issued by the company under the 1960 Indenture.

(2) Its wholly owned subsidiary, Miles International Inc. ("International"), has issued and sold under the New Indenture among the Company, International and First National $15 million principal amount of its 4¾ percent Subordinated Guaranteed Convertible Debentures due 1993 (the "New Debentures"), guaranteed by the Company. The New Debentures were not registered under the Securities Act of 1933 and the New Indenture was not qualified under the Act. The underwriters who purchased the New Debentures have agreed not to offer any of the New Debentures in the United States or to nationals or residents thereof;

(3) The 1960 Indenture and the New Indenture are wholly unsecured. All debentures issued under the 1960 Indenture rank equally with the guarantee by the Company of the New Debentures. The indentures differ as to the issuance of coupon debentures, qualification under the Act, redemption provisions, maturity dates, conversion features, provision relating to sinking fund, conversion and other matters. Such differences as exist between the 1960 Indenture and the New Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify First National from acting as trustee under either of said indentures.

The Company has waived notice of hearing and has waived a hearing.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at 500 North Capitol Street, Washington, D.C. 20549.

Notice is further given that any interested person may, not later than September 23, 1968, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 68-10466; Filed, Aug. 29, 1968; 8:45 a.m.]

ZIMOCO PETROLEUM CORP.

Order Suspending Trading

AUGUST 26, 1968.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Zimoco Petroleum Corp., New York, N.Y., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period August 27, 1968, through September 2, 1968, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 68-10467; Filed, Aug. 29, 1968; 8:45 a.m.]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority 30-6 (Southwestern Area), Disaster 676]

MANAGER, DISASTER BRANCH OFFICE, EL PASO, TEX.

Delegation of Authority Relating to Financial Assistance Functions

Notice is hereby given that Delegation of Authority No. 30-6, Disaster No. 676, 33 F.R. 11611, dated August 15, 1968, is hereby rescinded in its entirety.

Effective date: August 16, 1968.

ROBERT E. WEST, *Area Administrator, Southwestern Area Office, Small Business Administration, Dallas, Tex.*

[F.R. Doc. 68-10462; Filed, Aug. 29, 1968; 8:45 a.m.]

[Delegation of Authority 30-6 (Rev. 4), Southwestern Area, Amdt. 1]

AREA ADMINISTRATORS

Delegation of Authority To Conduct Program Activities in Southwestern Area

Pursuant to the authority delegated to the Area Administrators by Delegation of Authority No. 30 (Revision 12), 32 F.R. 179, dated January 7, 1967, Amendment 1, 32 F.R. 8113, dated June 6, 1967, and Amendment 2, 33 F.R. 8793, dated June 15, 1968, Delegation of Authority No. 30-6 (Revision 4), Southwestern Area, 33 F.R. 10539, dated July 24, 1968, is hereby amended by adding to paragraphs I.E. 1.; II. D.; II. F. 2.; II. G. 12; III.C. and III. E. 12, the following:

No authority is hereby delegated to declare the nonapplicability of eligibility limitations to a community emergency as set forth in § 120.2(e) of SBA Loan Policy Regulations.

Effective date: August 13, 1968.

ROBERT E. WEST,
Area Administrator,
Southwestern Area.

[F.R. Doc. 68-10463; Filed, Aug. 29, 1968; 8:45 a.m.]

ARCATA INVESTMENT CO.

Notice of Issuance of Small Business Investment Company License

On August 6, 1968, a notice of application for a license as a small business investment company was published in the FEDERAL REGISTER (33 F.R. 11126) stating that an application had been filed with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations Governing Small Business Investment Companies (13 CFR Part 107, 33 F.R. 326) for a license as a small business investment company by Arcata Investment Co., 770 Welch Road, Palo Alto, Calif. 94301.

Interested parties were given to the close of business August 12, 1968, to submit their written comments to SBA. No comments were received.

Notice is hereby given that pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended (the Act), after having considered the application and all other pertinent information and facts with regard thereto, SBA has issued license No. 12/12-0146 to Arcata Investment Co. to operate as a small business investment company.

The license was issued in Washington, D.C., on August 13, 1968.

GLENN R. BROWN,
Associate Administrator
for Investment.

[F.R. Doc. 68-10509; Filed, Aug. 29, 1968; 8:49 a.m.]

BROADWAY CAPITAL CORP.

Approval of Application for Transfer of Control of Licensed Small Business Investment Company

On July 23, 1968, a notice of application for transfer of control was published in the FEDERAL REGISTER (33 F.R. 10477) stating that an application had been filed with the Small Business Administration (SBA) pursuant to § 107.701 of the regulations governing small business investment companies (13 CFR Part 107; 33 F.R. 326) for transfer of control of Broadway Capital Corp., 80 Pine Street, New York, N.Y. 10005, a Federal Licensee under the Small Business Investment Act of 1958, as amended; License No. 02/02-0024.

Interested persons were given until August 2, 1968, to send their written comments to SBA. No comments were received.

Having considered the application and all other pertinent information and facts with regard thereto, SBA hereby approves the application for transfer of control of Broadway Capital Corp.

Dated: August 23, 1968.

GLENN R. BROWN,
Associate Administrator
for Investment.

[F.R. Doc. 68-10510; Filed, Aug. 29, 1968; 8:49 a.m.]

REGENT INVESTMENT CORP.

Approval of Application for Transfer of Control of Licensed Small Business Investment Company

On July 19, 1968, a notice of application for transfer of control was published in the FEDERAL REGISTER (33 F.R. 10373) stating that an application had been filed with the Small Business Administration (SBA) pursuant to § 107.701 of the regulations governing small business investment companies (13 CFR, Part 107, 33 F.R. 326) for transfer of control of Regent Investment Corp., 1615 Bonaza Street, Walnut Creek, Calif. 94596, a Federal Licensee under the Small Business Investment Act of 1958, as amended ("the Act"), License No. 12/12-0113.

Interested persons were given 15 days to submit to SBA their written comments. No unfavorable comments were received.

SBA, having considered the application and all other pertinent information and facts with regard thereto, hereby approves the application for transfer of control of Regent Investment Corp.

Issued in Washington, D.C., on August 15, 1968.

GLENN R. BROWN,
Associate Administrator
for Investment.

[F.R. Doc. 68-10511; Filed, Aug. 29, 1968; 8:49 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 678]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 26, 1968.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 1936 (Sub-No. 31 TA), filed August 21, 1968. Applicant: B & P MOTOR EXPRESS, INC., 720 Gross Street, Pittsburgh, Pa. 15224. Applicant's representative: John A. Vuono, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrought steel conduit pipe and wrought steel conduit pipe fittings* which are unloaded by carrier's mechanical unloading devices, from the plantsite of Cyclops Corp., Sawhill Tubular Division, Sharon, Pa., to points in Illinois, Indiana, and Kentucky, for 180 days. Supporting shipper: Cyclops Corp., Sawhill Tubular Division, Box 11, Sharon, Pa. 16146. Send protests to: John J. England, District Supervisor, 2109 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 35320 (Sub-No. 103 TA), filed August 21, 1968. Applicant: T.I.M.E. FREIGHT, INC., 2598 74th Street, Lubbock, Tex. 79408. Applicant's representative: W. D. Benson, Jr., Citizens Tower, Lubbock, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Explosives and/or component parts*, between Memphis, Tenn., and Nashville, Tenn., serving the intermediate point of Milan Army Ammunition Depot. From Memphis over U.S. Highway 70, alternate 70 and 70 to Nashville and return over the same route. NOTE: Carrier does intend to tack the authority here applied for to other authority held by it, for 180 days. Supporting shipper: George W. Baude, Acting Chief, Operations Division, Directorate of Freight Traffic, Military Traffic Management and Terminal Service, Washington, D.C. 20315. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 918 Tyler Street, Amarillo, Tex. 79101.

No. MC 52704 (Sub-No. 64 TA), filed August 21, 1968. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., Post Office Box 495, LaFayette, Ala. 36862. Applicant's representative: John W. Cooper, 1301 City Federal Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass bottles and glass containers*, from plantsite of Laurens Glass, Inc., at or near Simsboro, La., to points in Illinois, Indiana, Kentucky, and West Virginia; with *Cullett* (scrap glass) on return, from named States to said plantsite, for 150 days. Supporting shipper: Laurens Glass, Inc., Drawer 9, Laurens, S.C. 29360. Send protests to: B. R. McKenzie, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 823, 2121 Building, 2121 Eighth Avenue North, Birmingham, Ala. 35203.

No. MC 103435 (Sub-No. 205 TA), filed August 21, 1968. Applicant: UNITED-BUCKINGHAM FREIGHT LINES, INC., 5773 South Prince, Post Office Box 192, Littleton, Colo. 80120. Applicant's representative: George R. LaBissoniere, 920 Logan Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, transporting: *Class A and B explosives*, moving on Government bills of lading, over regular routes: (1) Between Army ammunition, ordnance, or supply locations at or near Joliet, Seneca, and Rockdale, Ill., and Omaha, Nebr.: Over U.S. Highway 64 and Interstate Highway 80 to Omaha and return, serving Omaha for purposes of joinder only; (2) Between the Corn Husker Ordnance Plant at or near Grand Island, Nebr., and Chadron, Nebr.: Over Interstate Highway 80 to its junction with U.S. Highway 385, thence over U.S. Highway 385 to Chadron and return, serving Chadron for purposes of joinder only; (3) Between Billings, Mont., and Missoula, Mont.; from Billings, over Interstate Highway 90 to Missoula, and return over the same route serving Billings and Missoula for purposes of joinder only. Over irregular routes: Between Spokane, Wash., on the one hand, and military installations in Washington, on the other hand. All traffic moving over the above-described highways restricted to traffic moving to or from U.S. Military installations on U.S. Government bills of lading only. Carrier does intend to tack the authority here applied for to other authority held by it, for 180 days. Supporting shipper: Department of the Army, Military Traffic Management and Terminal Service. Send protests to: District Supervisor Herbert C. Ruoff, Interstate Commerce Commission, 2022 Federal Building, Denver, Colo. 80202.

No. MC 123048 (Sub-No. 139 TA), filed August 21, 1968. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton Avenue 53403, Racine, Wis. 53401, Post Office Box A. Applicant's representative: Leo L. Berg (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Snowmobiles*, from the plantsite of Badger Northland, Inc., a wholly owned subsidiary of Massey-Ferguson, Inc., at Algoma, Wis., to points in Colorado, Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming, for 180 days. Supporting shipper: Massey-Ferguson, Inc., 1901 Bell Avenue, Des Moines, Iowa 50315 (Leonard J. Child, General Traffic Manager). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 124221 (Sub-No. 18 TA), filed August 21, 1968. Applicant: HOWARD BAER, 821 East Dunne Street, Post Office Box 127, Morton, Ill. 61550. Applicant's representative: Robert W. Loser, 409 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Puddings*, from the plantsite and facilities of Sealtest Foods, Division of National Diary Products Corp., Peoria, Ill., to points in the Minneapolis-St. Paul, Minn., commercial zone and Sioux Falls, S. Dak., for 180 days. Supporting shipper: Sealtest Foods Division, National Diary Products Corp., 455 East Grand Avenue, Chicago, Ill. 60611. Send protests to: Raymond E. Mauk, District Supervisor, Interstate Commerce Commission, Bureau of Operations, U.S. Courthouse, Federal Office Building, Room 1086, 219 South Dearborn Street, Chicago, Ill. 60604.

No. MC 133102 TA, filed August 21, 1968. Applicant: ALLEN TRUCKING COMPANY, INC., Route No. 2, Box 51, Keithville, La. 71047. Applicant's representative: Paul Caplinger, Post Office Box 7666, Shreveport, La. 71107. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Sawdust*, between Shreveport, La., on the one hand, and points in Harrison County, Tex., on the other, for 180 days. Supporting shippers: (1) Acme Sawdust Co., Post Office Box 9282, San Antonio, Tex. 78204, (2) Love Wood Products, Post Office Drawer O, Diboll, Tex. 75941. Send protests to: W. R. Atkins, District Supervisor, Bureau of Operations, Interstate Commerce Commission, T-4009 Federal Building, 701 Loyola Avenue, New Orleans, La. 70113.

No. MC 133103 TA, filed August 21, 1968. Applicant: LOUIS T. BENTON, III, doing business as L. T. BENTON TRANSPORT, 122 Derby Avenue, Orange, Conn. 06477. Applicant's representative: William J. Meuser, 101 River Street, Milford, Conn. 06460. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Games or toys, athletic or sporting goods*, between West Haven, Conn., and Utica, N.Y., and Binghamton, N.Y.; Taylor, Wilkes-Barre, and Kingston, Pa.; and Baltimore, Md., for 180 days. Supporting shipper: Herbert Distributors, Inc., 529 Orange Avenue, West Haven, Conn. 06516. Send protests to: District Supervisor David J. Kiernan, Bureau of Operations, Interstate Commerce Commission, 324 U.S. Post Office Building, 135 High Street, Hartford, Conn. 06101.

No. MC 133104 TA, filed August 21, 1968. Applicant: GEORGE D. CONROY, 1923 Court Street, Redding, Calif. 96001. Applicant's representative: George D. Conroy, 1923 Court Street, Redding, Calif. 96001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked, disabled, and inoperative motor vehicles, including buses, trailers* (except mobile homes or house trailers designed to be drawn by passenger vehicles) *and replacements thereof*, in tow-away service by wrecker equipment only, from points in California, Nevada, and Oregon, to points in California, Nevada, and Oregon, for 180 days. Supporting shippers: Griffin's Repair, Redding, Calif.; Bystle's Truck & Parts, Redding, Calif.; Hammon Trucking, Inc., Redding, Calif.; Redding Kenworth Co., Redding, Calif.; Watson & Meehan, San Francisco, Calif.; Peterbilt and GMC Shasta Truck & Equipment, Inc., Redding, Calif.; Western Greyhound Lines, San Francisco, Calif. Send protests to: District Superivsor, William E. Murphy, Interstate Commerce Commission, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 133105 TA, filed August 21, 1968. Applicant: ROBERT A. JONES AND JOHN W. JONES, a partnership, doing business as J. and J. TRANSFER, Post Office Box 2201, 600 Lumpkin Boulevard, Columbus, Ga. 31902. Applicant's representative: C. E. Walker, 306 First National Bank Building, Columbus, Ga. 31902. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Food products*, such as *flour, grain, cereal, and soups*, from Atlanta and Columbus, Ga., to points in Georgia; Opelika, Ala.; and Quincy and Tallahassee, Fla., and the commerical zones thereof. This is a piggyback arrangement under Plan Two and One-half from Chicago, Ill., to Atlanta and/or Columbus, Ga. This application is to provide service from ramp to destinations herein, for 180 days. Supporting shipper: General Mills, Inc., 900 Wayzata Boulevard, Minneapolis, Minn. 55440. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 133054 (Correction), filed July 31, 1968, published in the FEDERAL REGISTER issue of August 7, 1968, and republished as corrected this issue. Applicant: CLEMENT E. COUILLARD, doing business as RELIABLE TRANSPORT SERVICE, 600 Spear Street, South Burlington, Vt. 05401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coins, currency, receipts, coin boxes* (empty or with coin), (1) from points in Vermont to Boston, Mass., and (2) from Boston, Mass., to points of origin in Vermont, for 180 days. Supporting shipper: R. B. Billings, 260 College Street, Burlington, Vt. Send protests to: Martin P. Monaghan, Jr:, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 52 State Street, Room 5, Montpelier, Vt. 05602. NOTE: The purpose of this republication is to add (2) above, which was omitted from the previous publication.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 68-10476; Filed, Aug. 29, 1968; 8:46 a.m.]

[Notice 199]

MOTOR CARRIER TRANSFER PROCEEDINGS

AUGUST 26, 1968.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-70723. By order of August 16, 1968, the Transfer Board approved the transfer to Pawhuska Motor Freight, Inc., Tulsa, Okla., of a portion of certificate of registration No. MC-121277 (Sub-No. 5), issued April 1, 1964, to National Cartage Co., a corporation, Tulsa, Okla., evidencing a right to engage in transportation in interstate or foreign commerce pursuant to certificate of public convenience and necessity No. A-995, issued December 22, 1961, by the Corporation Commission of Oklahoma. Charles D. Dudley, 419 Northwest Sixth Street, Oklahoma City, Okla. 73102, attorney for applicants.

No. MC-FC-70724. By order of August 16, 1968, the Transfer Board approved the transfer to Claremore Freight Line, Inc., Tulsa, Okla., of a portion of certificate of registration No. MC-121277 (Sub-No. 5), issued April 1, 1964, to National Cartage Co., a corporation, Tulsa, Okla., evidencing a right to engage in transportation in interstate or foreign commerce pursuant to certificate of public convenience and necessity No. A-996, issued December 22, 1961, by the Corporation Commission of Oklahoma. Charles D. Dudley, 419 Northwest Sixth Street, Oklahoma City, Okla. 73102, attorney for applicants.

No. MC-FC-70725. By order of August 16, 1968, the Transfer Board approved the transfer to Bartlesville Motor Freight, Inc., Tulsa, Okla., of a portion of certificate of registration No. MC-121277 (Sub-No. 5), issued April 1, 1964, to National Cartage Co., a corporation, Tulsa, Okla., evidencing a right to engage in transportation in interstate or foreign commerce pursuant to certificate of public convenience and necessity No. A-990, issued August 22, 1961, by the Corporation Commission of Oklahoma. Charles D. Dudley, 419 Northwest Sixth Street, Oklahoma City, Okla. 73102, attorney for applicants.

No. MC-FC-70728. By order of August 16, 1968, the Transfer Board approved the transfer to Okmulgee Express, Inc., Tulsa, Okla., of a portion of certificate of registration No. MC-121277 (Sub-No. 5), issued April 1, 1964, to National Cartage Co., a corporation, Tulsa, Okla., evidencing a right to engage in transportation in interstate or foreign commerce pursuant to certificate of public convenience and necessity No. A-977, issued March 8, 1961, by the Corporation Commission of Oklahoma. Charles D. Dudley, 419 Northwest Sixth Street, Oklahoma City, Okla. 73102, attorney for applicants.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 68-10477; Filed, Aug. 29, 1968; 8:46 a.m.]

FOURTH SECTION APPLICATION FOR RELIEF

AUGUST 27, 1968.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41421—*Phosphate rock from Occidental, Fla.* Filed by O. W. South, Jr., agent (No. A6044), for interested rail carriers. Rates on phosphate rock, crude, other than ground phosphate rock, in bulk in covered hopper cars, in carloads, from Occidental, Fla., to Beloeil, Buckingham, and Varennes, Quebec, Canada.

Grounds for relief—Market competition.

Tariff—Supplement 63 to Southern Freight Association, agent, tariff ICC S-658.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 68-10478; Filed, Aug. 29, 1968; 8:46 a.m.]

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